

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION

Case No. 0:18-cv-01776-JRT- JFD

This Document Relates To:

THE DIRECT PURCHASER
PLAINTIFFS ACTION

**DECLARATION OF
CHRISTOPHER A. SMITH IN
SUPPORT OF DEFENDANT
TRIUMPH FOODS, LLC'S
MOTION FOR SUMMARY
JUDGMENT**

I, Christopher A. Smith, declare as follows:

1. I am over the age of majority, am competent to testify, and I have personal knowledge of the matters addressed in this declaration.
2. I am a partner at the law firm of Husch Blackwell LLP and have been admitted to practice *pro hac vice* in the District of Minnesota in the above-captioned lawsuit.
3. This declaration is submitted in support of Defendant Triumph Foods, LLC's Motion for Summary Judgment.
4. Attached as Exhibit A is a true and correct copy of excerpts from the Deposition of Jerry Lehenbauer.
5. Attached as Exhibit B is a true and correct copy of excerpts from the Deposition of Matt England.

6. Attached as Exhibit C is a true and correct copy of excerpts from the Deposition of Mark Campbell.

7. Attached as Exhibit D is a true and correct copy of excerpts from the Deposition of Rick Hoffman.

8. Attached as Exhibit E is a demonstrative chart I created comparing the number of “Working Days” to the number of “Triumph Working Days” from 2008 through 2018.

9. The number of “Triumph Working Days” for each year was determined using the data included in the “Operating Days” tab of the Excel file attached as Exhibit A to the Declaration of Jerry Lehenbauer. The chart includes a fair and accurate representation of this data.

10. The number of “Working Days” was calculated by taking the number of days in the given year and subtracting weekends and public holidays. This calculation does not account for vacation time, unforeseen weather events, or other uncontrollable shut down events.

11. Attached as Exhibit F is a true and correct copy of Exhibit England 1, from the Deposition of Matt England, bates labeled TRI0000544439-40.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 20, 2023

/s/ Christopher Andrew Smith
Christopher A. Smith

EXHIBIT A

DEPOSITION OF JERRY LEHENBAUER TRIUMPH VICE PRESIDENT OF HOG PROCUREMENT

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE : CIVIL NO.:
: 18-1776 (JRT/HB)
PORK ANTITRUST :
LITIGATION :

* * *

VIDEOTAPED DEPOSITION OF JERRY LEHENBAUER
WEDNESDAY, SEPTEMBER 21, 2022
HIGHLY CONFIDENTIAL

* * *

Videotaped deposition of JERRY
LEHENBAUER, taken remotely, commencing at
8:28 a.m. before Debbie Leonard, Registered
Diplomate Reporter, Certified Realtime
Reporter.

* * *

VERITEXT LEGAL SOLUTIONS
MID-ATLANTIC REGION
1801 Market Street - Suite 1800
Philadelphia, Pennsylvania 19103

1 THE VIDEOGRAPHER: We are on
2 the record. Today's date is September
3 the 21st, 2022. We are going on the
4 record at 10:28 a.m.

5 This is the video deposition of
6 Jerry Lehenbauer in the matter of Pork
7 Antitrust Litigation. Case number is
8 18-1776 (JRT/HB).

9 This deposition is taking place
10 at Husch Blackwell, Kansas City,
11 Missouri.

12 Will the court reporter please
13 swear in the witness.

14 (Witness sworn.)

15 MS. VAN ENGELLEN: Good morning,
16 sir. Just for the record, we're
17 starting at 8:28 Pacific time today or
18 10:28, I think, your time, and that's
19 because there were some issues getting
20 the Zoom set up in the room that you
21 are in.

22 Also, I sent a box of exhibits
23 to you guys, and you've opened it
24 prior to the start of the deposition,

1 the premium or discount factor that's applied
2 to that individual carcass when it's
3 purchased.

4 Q. And then you mentioned hog
5 carcass weight. How does that factor in?

6 A. Yeah, all of Triumph's market
7 hog purchases are based on carcass weight,
8 not on live weight. So we record the carcass
9 weight at the time of slaughter.

10 Q. Do members who -- do members of
11 Triumph get any other compensation in
12 addition to the compensation they get from
13 selling hogs?

14 MR. SPUNG: Objection. Form.
15 Foundation.

16 THE WITNESS: Triumph Foods
17 members are owners of the Triumph
18 Foods LLC, and there are distributions
19 that are made to the owners of the LLC
20 that are independent of market hog
21 purchases.

22 BY MS. VAN ENGELLEN:

23 Q. And how often are these
24 distributions made to members, if you know?

1 A. I don't know.

2 Q. Can you estimate what portion
3 of Triumph's hogs are supplied by Triumph's
4 members?

5 MR. SPUNG: Objection. Form.

6 At a given time period, Counsel, or
7 just across the whole time period?

8 MS. VAN ENGELN: Well, let's
9 start with the 2009 to 2019 time
10 frame.

11 BY MS. VAN ENGELN:

12 Q. And, sir, just let me know if
13 you think it varies too much to give an
14 estimate.

15 But between 2009 and 2019, can
16 you give me an estimate for what portion of
17 Triumph's hogs were supplied by members?

18 A. Yes. On our member hog supply,
19 approximately in 2009 it would have been
20 about 80 percent, I believe.

21 And then 2019, it would have
22 increased. It probably was, I believe,
23 around 90 percent at that time.

24 Q. Why did it increase, if you

1 know?

2 A. Yeah, it's -- it's varied based
3 on our supply commitments with other
4 producers that supply hogs with -- to Triumph
5 Foods.

6 Q. When you're talking about these
7 supply commitments with other producers, are
8 you talking about supply commitments with
9 non-members?

10 A. Yes, that would be included in
11 that.

12 Q. How are non-members paid for
13 their hogs?

14 MR. SPUNG: Objection. Form.
15 You can answer.

16 THE WITNESS: There are
17 different base price mechanisms that
18 we use for non-members.

19 BY MS. VAN ENGELN:

20 Q. And what are the different base
21 price mechanisms you use for non-members?

22 A. We've used several different
23 methods. One of the more predominant methods
24 uses the USDA Western Corn Belt carcass --

1 THE WITNESS: Yes.

2 BY MR. SPUNG:

3 Q. Okay. Do you believe the
4 capacity information at the time of this
5 e-mail was confidential --

6 MS. VAN ENGELN: Object to
7 form.

8 BY MR. SPUNG:

9 Q. -- [indiscernible] Seaboard
10 Triumph Foods?

11 MS. VAN ENGELN: Object to
12 form.

13 * * *

14 (Court reporter clarification.)

15 * * *

16 BY MR. SPUNG:

17 Q. At this time in 2015, do you
18 believe the capacity information about
19 Seaboard Triumph Foods was confidential?

20 MS. VAN ENGELN: Same
21 objection.

22 THE WITNESS: No, I don't
23 believe it was confidential.

24 BY MR. SPUNG:

1 Q. Okay. You can put that aside.

2 Mr. Lehenbauer, this might be
3 a -- might seem a fairly basic question,
4 given how much testimony you've already
5 provided today, but can you just tell me at a
6 high level, what is Triumph Foods?

7 MS. VAN ENGELN: Object to
8 form.

9 THE WITNESS: Triumph Foods is
10 a pork processing company that has a
11 pork processing plant located in
12 St. Joe, Missouri.

13 BY MR. SPUNG:

14 Q. Okay. And so to be a pork
15 processor, what does that mean?

16 A. That means that we slaughter
17 market hogs to produce pork products.

18 Q. Does Triumph grow hogs?

19 A. No.

20 Q. Does Triumph have sow farm
21 operations?

22 MS. VAN ENGELN: Object to
23 form.

24 THE WITNESS: No.

1 BY MR. SPUNG:

2 Q. Has Triumph ever had sow farm
3 operations?

4 MS. VAN ENGELLEN: Object to
5 form.

6 THE WITNESS: No.

7 BY MR. SPUNG:

8 Q. Does Triumph own sows?

9 MS. VAN ENGELLEN: Object to
10 form.

11 THE WITNESS: No.

12 BY MR. SPUNG:

13 Q. Has Triumph ever owned sows?

14 MS. VAN ENGELLEN: Object to
15 form.

16 THE WITNESS: No.

17 BY MR. SPUNG:

18 Q. Okay. Has Triumph ever reduced
19 its sow herd?

20 MS. VAN ENGELLEN: Object to
21 form.

22 THE WITNESS: No.

23 BY MR. SPUNG:

24 Q. Okay. Are you familiar with

1 the term "contract hogs"?

2 A. Yes.

3 Q. Okay. And so if I define that
4 to mean a hog that a pork processor raised
5 but some other company [indiscernible]?

6 * * *

7 (Court reporter clarification.)

8 * * *

9 BY MR. SPUNG:

10 Q. If I define it to mean -- if I
11 define "contract hog" to mean a hog that a
12 pork processor owns while the hog is raised,
13 but some other company, like a farm operator,
14 actually raises it, is that -- does that
15 align with your definition of "contract hog"?

16 MS. VAN ENGELLEN: Object to
17 form.

18 THE WITNESS: Yes.

19 BY MR. SPUNG:

20 Q. Okay. Does Triumph own
21 contract hogs?

22 MS. VAN ENGELLEN: Object to
23 form.

24 THE WITNESS: No.

1 BY MR. SPUNG:

2 Q. Has Triumph ever owned contract
3 hogs?

4 MS. VAN ENGELLEN: Object to
5 form.

6 THE WITNESS: No.

7 BY MR. SPUNG:

8 Q. Okay. Is it safe to say, then,
9 that Triumph has procured every hog it has
10 ever processed from hog producers?

11 MS. VAN ENGELLEN: Object to
12 form.

13 THE WITNESS: Yes.

14 BY MR. SPUNG:

15 Q. Okay. And does Triumph own any
16 hogs before it receives them at its facility
17 in St. Joseph?

18 MS. VAN ENGELLEN: Object to
19 form.

20 THE WITNESS: No.

21 BY MR. SPUNG:

22 Q. Has it ever owned any hogs
23 before it receives them at its facility in
24 St. Joseph?

1 MS. VAN ENGELN: Object to
2 form.

3 THE WITNESS: No.

4 BY MR. SPUNG:

5 Q. With that background, has
6 Triumph ever reduced its level of hog
7 production?

8 MS. VAN ENGELN: Object to
9 form.

10 THE WITNESS: No.

11 BY MR. SPUNG:

12 Q. Because it has no hog
13 production?

14 A. Correct.

15 MS. VAN ENGELN: Object to
16 form.

17 BY MR. SPUNG:

18 Q. At a general level, you're
19 aware that Triumph is a defendant in
20 antitrust litigation, right?

21 MS. VAN ENGELN: Object to
22 form.

23 THE WITNESS: Yes.

24 BY MR. SPUNG:

1 Q. And that's what you're here
2 today for, correct?

3 MS. VAN ENGELEN: Object to
4 form.

5 THE WITNESS: Yes.

6 BY MR. SPUNG:

7 Q. Okay.

8 MR. SPUNG: Counsel, we can
9 give you a standing objection if you
10 want. I'm not sure what the basis for
11 the objections are.

12 MS. VAN ENGELEN: The last
13 question was leading.

14 BY MR. SPUNG:

15 Q. Are you aware of who the
16 plaintiffs are, generally, in the case?

17 A. Yes.

18 Q. Okay. Could you, at a very
19 high level, describe them for me?

20 MS. VAN ENGELEN: Object to
21 form.

22 THE WITNESS: I believe it
23 includes foodservice companies and
24 restaurants and other purchasers of

1 pork products.

2 BY MR. SPUNG:

3 Q. Okay. I'm going to read you a
4 few allegations the plaintiffs have made in
5 this case and get your response or reaction
6 to them.

7 Does that make sense?

8 A. Yes.

9 Q. Okay. Here's one. So, quote,
10 "During 2009, Triumph reduced the number of
11 sows that it had from 396,000 to 371,500,"
12 unquote.

13 How would you respond to that,
14 Mr. Lehenbauer?

15 MS. VAN ENGELLEN: Object to
16 form.

17 MR. SPUNG: Bree, you can
18 object, but at least let me get my
19 question finished.

20 MS. VAN ENGELLEN: Sorry.
21 Sometimes the Zoom cuts out. I'm
22 trying.

23 THE WITNESS: That is an
24 inaccurate statement. Triumph does

1 not own any sows.

2 BY MR. SPUNG:

3 Q. Okay. Another allegation,
4 quote, "In 2009, Triumph reported substantial
5 cutbacks of approximately 24,500 sows
6 representing over 6 percent of its sow herd,"
7 unquote.

8 How do you respond to that,
9 sir?

10 MS. VAN ENGELN: Object to
11 form.

12 THE WITNESS: That also is an
13 inaccurate statement. Triumph Foods
14 does not own and has not owned any
15 sows.

16 BY MR. SPUNG:

17 Q. Okay. Another allegation,
18 "Triumph reduced the number of sows by 14,500
19 at its Christensen facility."

20 How do you respond to that
21 allegation?

22 MS. VAN ENGELN: Object to
23 form.

24 THE WITNESS: That is an

1 inaccurate statement. Triumph Foods
2 does not own any sows and we do not
3 own or control operations at any
4 Christensen Farms facilities.

5 BY MR. SPUNG:

6 Q. Okay. Has Triumph ever had a
7 Christensen facility, quote/unquote?

8 MS. VAN ENGELEN: Object to
9 form.

10 THE WITNESS: No, we have not.

11 BY MR. SPUNG:

12 Q. And you mentioned it -- you
13 mentioned the phrase "Christensen Farms." To
14 the extent that Christensen facility could
15 refer to Christensen Farms, let me ask you
16 this: Does Triumph own Christensen Farms?

17 MS. VAN ENGELEN: Object to
18 form.

19 THE WITNESS: No, we do not.

20 BY MR. SPUNG:

21 Q. Does Triumph have any control
22 over the number of sows maintained by
23 Christensen Farms?

24 A. No, we do not.

1 Q. Does Triumph have any influence
2 whatsoever over the number of sows maintained
3 by Christensen Farms?

4 MS. VAN ENGELLEN: Object to
5 form.

6 THE WITNESS: No.

7 BY MR. SPUNG:

8 Q. Okay. What about the number of
9 hogs produced? Does Triumph have any control
10 over the number of hogs produced by
11 Christensen Farms?

12 A. No.

13 MS. VAN ENGELLEN: Object to
14 form.

15 BY MR. SPUNG:

16 Q. Does Triumph have any influence
17 whatsoever over the hogs produced by
18 Christensen Farms?

19 MS. VAN ENGELLEN: Object to
20 form.

21 THE WITNESS: No.

22 BY MR. SPUNG:

23 Q. [Indiscernible]?

24 * * *

1 How do you respond to that
2 allegation?

3 MS. VAN ENGELLEN: Object to
4 form.

5 THE WITNESS: Triumph Foods
6 does not own any sows, so that's an
7 inaccurate statement.

8 BY MR. SPUNG:

9 Q. Okay. I believe this is the
10 last one to present to you. Quote, "In
11 August 2009, Smithfield considered publishing
12 an op-ed saying Seaboard had not taken steps
13 to reduce its pork supply but, quote,
14 'withdrew it' after receiving assurances that
15 Triumph was in the process of reducing its
16 production levels by approximately 32,000
17 sows, an 8 percent reduction from its 2007
18 levels," unquote.

19 How do you respond to that
20 allegation, sir?

21 A. Yeah, that --

22 MS. VAN ENGELLEN: Object to
23 form.

24 THE WITNESS: That's an

1 inaccurate statement. Triumph Foods
2 does not own any sows.

3 BY MR. SPUNG:

4 Q. Has it ever owned any?

5 A. No.

6 Q. Does Triumph sell any of the
7 pork products it produces as a result of its
8 processing operations?

9 A. No.

10 Q. Okay. Who does that?

11 A. Seaboard Foods.

12 Q. We've covered a little bit of
13 this before, but just to clarify for the
14 record. Who owns Triumph?

15 A. Triumph Foods is a hundred
16 percent owned by pork producers.

17 Q. And what does it mean to be a
18 pork producer?

19 A. A pork producer --

20 MS. VAN ENGELN: Object to
21 form.

22 THE WITNESS: A pork producer
23 is an entity that produces market
24 hogs.

1 BY MR. SPUNG:

2 Q. Okay. Does Triumph have any
3 ownership interest in any of its owners --
4 I'm sorry -- its members?

5 MS. VAN ENGELN: Object to
6 form.

7 THE WITNESS: No.

8 BY MR. SPUNG:

9 Q. Has it ever had any ownership
10 interest in any of its members?

11 MS. VAN ENGELN: Object to
12 form.

13 THE WITNESS: No.

14 BY MR. SPUNG:

15 Q. Does Triumph have any control
16 over the size of any of its members' sow
17 herds?

18 MS. VAN ENGELN: Object to
19 form.

20 THE WITNESS: No, it does not.

21 BY MR. SPUNG:

22 Q. Does Triumph have any influence
23 over the size of any of its members' herds?

24 MS. VAN ENGELN: Object to

1 form.

2 THE WITNESS: No, it does not.

3 BY MR. SPUNG:

4 Q. Does Triumph have any control
5 over the number of hogs produced by any of
6 its members?

7 MS. VAN ENGELN: Object to
8 form.

9 THE WITNESS: No, it does not.

10 BY MR. SPUNG:

11 Q. Okay. Does Triumph have any
12 influence over the number of hogs produced by
13 its members?

14 MS. VAN ENGELN: Object to
15 form.

16 THE WITNESS: No.

17 BY MR. SPUNG:

18 Q. Has it ever?

19 A. No.

20 MS. VAN ENGELN: Object to
21 form.

22 BY MR. SPUNG:

23 Q. You may not know the answer to
24 this, but I'll ask it anyway. Do Triumph's

1 members sell hogs to hog processors that are
2 not Triumph Foods?

3 MS. VAN ENGELN: Object to
4 form.

5 THE WITNESS: At times, yes,
6 members have sold to other processors.

7 BY MR. SPUNG:

8 Q. Okay. And then Triumph, of
9 course, itself procures hogs from its
10 members, fair?

11 MS. VAN ENGELN: Object to
12 form.

13 THE WITNESS: Yes.

14 BY MR. SPUNG:

15 Q. And we covered this a little
16 bit earlier today, but to ask it again, is
17 there a contract of some kind governing
18 Triumph's procurement of hogs from its
19 members?

20 A. Yes, Triumph Foods has a hog
21 procurement agreement in place with each of
22 its members.

23 Q. Okay. And if I refer to those
24 as member HPAs, can you follow me?

1 A. Yes.

2 Q. Okay. Per your understanding
3 as vice president of procurement at Triumph,
4 are there any requirements in any member HPA
5 regarding hog production volume from each
6 member?

7 MS. VAN ENGELN: Object to
8 form.

9 THE WITNESS: No.

10 BY MR. SPUNG:

11 Q. There are no -- are there -- is
12 there any minimum that each member is
13 required to meet in terms of hog production?

14 MS. VAN ENGELN: Object to
15 form.

16 THE WITNESS: Yes, there are
17 delivery requirements for delivery of
18 market hogs to Triumph by its members.

19 BY MR. SPUNG:

20 Q. Okay. If a member fails to
21 meet their production volume commitment to
22 Triumph, does the contract address that
23 situation?

24 A. Yes, it does.

1 Q. Okay. What would the
2 consequence be for that?

3 A. It has provisions for delivery
4 requirements, and failure to meet those
5 requirements may result in a replacement
6 damage penalty.

7 Q. Okay. And are there any other
8 potential consequences that a member may face
9 for failing to deliver hogs to Triumph --

10 MS. VAN ENGELLEN: Object to
11 form.

12 MR. SPUNG: Sorry. "The
13 required number" is the end of that
14 question.

15 MS. VAN ENGELLEN: I apologize.
16 Object to form.

17 THE WITNESS: Yes. So they can
18 be assessed a replacement damage
19 penalty, and if they fail to pay the
20 penalty, the company can take steps to
21 remove them as a member for failure to
22 pay.

23 BY MR. SPUNG:

24 Q. Okay. So why would Triumph

1 require its own owners to commit to certain
2 hog production at its processing facility?

3 A. So that it can maintain
4 efficient operating capacities.

5 Q. And why would Triumph penalize
6 its own owners who didn't meet those
7 commitments?

8 MS. VAN ENGELEN: Object to
9 form.

10 THE WITNESS: So that we can
11 plan our operating schedule and ensure
12 that we have adequate hog supplies to
13 meet our operating schedule
14 requirements.

15 BY MR. SPUNG:

16 Q. And do you know if Triumph has,
17 in fact, assessed replacement damages to
18 members who failed to meet their hog
19 production commitments since 2008?

20 A. Yes, it --

21 MS. VAN ENGELEN: Object --

22 THE WITNESS: -- did.

23 BY MR. SPUNG:

24 Q. And by the way, is it possible

1 for a member -- a Triumph member to supply
2 Triumph with what you would refer to as a --
3 as a member -- let me strike that and ask it
4 again.

5 Can Triumph members supply
6 Triumph with both member and non-member hogs?

7 A. Yes, it can.

8 Q. Okay. How do you explain that?
9 What would a member hog be in that situation?

10 A. A member hog would be a market
11 hog delivered as a Triumph member and a
12 delivery requirement as a Triumph member.

13 If that member had additional
14 market hogs that it wanted to sell to
15 Triumph, we could procure those under a
16 non-member hog procurement agreement with
17 that Triumph member.

18 Q. Okay. So, in other words, if a
19 Triumph member is supplying Triumph what you
20 would call non-member hogs [indiscernible]?

21 * * *

22 (Court reporter clarification.)

23 * * *

24 BY MR. SPUNG:

1 Q. In other words, Mr. Lehenbauer,
2 if a Triumph member supplies Triumph with
3 what you would call a non-member hog, that
4 would just be a hog that's provided outside
5 the member HPA?

6 MS. VAN ENGELN: Object to
7 form.

8 THE WITNESS: Yes, that's
9 correct.

10 BY MR. SPUNG:

11 Q. Okay. Does Triumph source hogs
12 for processing from non-member hog producers
13 as well?

14 A. Yes, it does.

15 Q. And how does Triumph source
16 those hogs?

17 A. It sources those hogs through
18 written hog procurement agreements and also
19 through verbal agreements and also purchases
20 through spot market negotiated prices.

21 Q. Okay. Does Triumph procure
22 hogs in any other way that you didn't just
23 mention?

24 A. Not that I'm aware of.

1 Q. Okay. All right. So to make
2 sure I'm understanding, every single hog
3 Triumph slaughters and processes since 2008
4 has been acquired via one of its owners or
5 from non-owner hog producers, correct?

6 MS. VAN ENGELN: Object to
7 form.

8 THE WITNESS: That is correct.
9 BY MR. SPUNG:

10 Q. Why does Triumph source hogs
11 for processing from non-member hog producers?

12 A. We source non-member hogs from
13 non-member producers to fulfill our plant
14 operating capacity requirements.

15 Q. Okay. Does Triumph ever accept
16 hogs from non-members for less than ideal
17 economic terms --

18 MS. VAN ENGELN: Object --
19 BY MR. SPUNG:

20 Q. -- to ensure that Triumph
21 maintains relationships and a steady supply
22 of hogs from non-members?

23 MS. VAN ENGELN: Object to
24 form.

1 MS. VAN ENGELN: Object to
2 form.

3 THE WITNESS: Yes.

4 BY MR. SPUNG:

5 Q. Do you know what Triumph's
6 processing capacity at the St. Joseph plant
7 was in 2018?

8 A. Approximately 21,500.

9 Q. Okay. Do you -- do you know
10 what Triumph's processing capacity was when
11 it began operations?

12 A. When we began operations in
13 2006, we started out with a single-shift
14 operation. We still had some inefficiencies
15 due to start-up. We were processing 6- to
16 7,000 head a day in the early weeks of our
17 start-up.

18 Q. Okay. How about in 2008? Do
19 you recall what Triumph's processing
20 [indiscernible]?

21 * * *

22 (Court reporter clarification.)

23 * * *

24 BY MR. SPUNG:

1 Q. Do you recall what Triumph's
2 processing capacity was in 2008?

3 A. In 2008, I believe we would
4 have been around 19,000 operating capacity.

5 Q. Okay. How long did it take
6 Triumph to reach the capacity of 21,500 from
7 its 19,000 capacity in 2008?

8 MS. VAN ENGELLEN: Object to
9 form.

10 THE WITNESS: We had to make
11 some capital improvements on some of
12 our facility and had to reorganize
13 some of our operating schedules to
14 work through some breaks. So it took
15 a couple of years, several years to
16 increase that capacity.

17 BY MR. SPUNG:

18 Q. If I were to use the term
19 "capacity utilization," do you have an
20 understanding of what I mean?

21 MS. VAN ENGELLEN: Object to
22 form.

23 THE WITNESS: Yes.

24 BY MR. SPUNG:

1 Q. Okay. What was Triumph's usual
2 capacity utilization during your tenure at
3 Triumph?

4 A. Our normal utilization is to be
5 running at full -- at near full capacity,
6 with the exception of downtime -- downtime or
7 other unusual events.

8 Q. Okay. Has there ever been a
9 prolonged period since 2008 when Triumph has
10 operated significantly below its capacity?

11 MS. VAN ENGELN: Object to
12 form.

13 THE WITNESS: No.

14 BY MR. SPUNG:

15 Q. Okay. Would it ever have been
16 in Triumph's interest or to its benefit in
17 any way to operate significantly below its
18 capacity for a prolonged period of time?

19 MS. VAN ENGELN: Object to
20 form.

21 THE WITNESS: No.

22 BY MR. SPUNG:

23 Q. This is a bit of an odd
24 question. Bear with me.

1 Throughout your tenure at
2 Triumph Foods, how would you describe the
3 number one operational objective that you
4 had?

5 A. The number one operational
6 objective is to run our facility as
7 efficiently as we can and to operate at full
8 available capacity of our facility.

9 Q. Are you aware, sir, of any
10 infrastructure capital investments Triumph
11 made to support those objectives?

12 A. Yes.

13 MS. VAN ENGELN: Object to
14 form.

15 THE WITNESS: Yes.

16 BY MR. SPUNG:

17 Q. Can you describe those for me?

18 A. It would --

19 MS. VAN ENGELN: Object to
20 form.

21 THE WITNESS: It would include
22 a capital project to expand our
23 equilibration bays [indiscernible].

24 * * *

1 (Court reporter clarification.)

2 * * *

3 THE WITNESS: It would include
4 capital projects to include the
5 expansion of our equilibration bays so
6 that we can store more carcasses that
7 we process from the kill floor.

8 We also made investments for
9 equipment to provide additional
10 automated technology to help improve
11 our line efficiencies.

12 BY MR. SPUNG:

13 Q. Anything else that you'd like
14 to add?

15 MS. VAN ENGELEN: Object to
16 form.

17 THE WITNESS: We also made --
18 added a freezer to our plant to allow
19 for more temporary storage of frozen
20 product to help with logistics of
21 moving product from our plant to
22 customers.

23 BY MR. SPUNG:

24 Q. Okay. What would your personal

1 role have been in achieving the operational
2 objective you said a moment ago?

3 MS. VAN ENGELN: Object to
4 form.

5 THE WITNESS: My primary
6 responsibility is to ensure that we
7 have adequate hog supplies available
8 on a daily basis to fulfill our
9 operating capacity of our plant.

10 BY MR. SPUNG:

11 Q. Do you believe you've been
12 successful in -- in reaching that goal?

13 A. Yes, I do.

14 Q. Do you know who the defendants
15 are in this case specifically?

16 A. I don't know that I could list
17 all of them.

18 Q. Okay. I'll represent to you
19 the defendants are Smithfield, JBS, Clemens,
20 Hormel, Seaboard, Tyson, Agri Stats, and at
21 one point Indiana Packers.

22 So when I say the word
23 "defendants" from here on, will you
24 understand that word to refer to those

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Page 284

ACKNOWLEDGMENT OF DEPONENT

I, Jerry Lehenbauer, do hereby
certify that I have read the foregoing pages
1 to 282 and that the same is a correct
transcription of the answers given by me to
the questions therein propounded, except for
the corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

11/10/2022

DATE


SIGNATURE

EXHIBIT B

DEPOSITION OF MATT ENGLAND TRIUMPH CEO

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MINNESOTA

3 IN RE : CIVIL NO.:
4 : 18-cv-1776 (JRT/JFD)
5 PORK ANTITRUST :
6 LITIGATION :
7

8 * * *
9 VIDEOTAPED DEPOSITION OF MATTHEW ENGLAND
10 THURSDAY, SEPTEMBER 22, 2022
11 HIGHLY CONFIDENTIAL
12 * * *

13 Videotaped deposition of MATTHEW
14 ENGLAND, taken remotely, commencing at
15 9:14 a.m. before Debbie Leonard, Registered
16 Diplomat Reporter, Certified Realtime
17 Reporter.
18
19
20
21

22 * * *
23 VERITEXT LEGAL SOLUTIONS
24 MID-ATLANTIC REGION
1801 Market Street - Suite 1800
Philadelphia, Pennsylvania 19103

1 THE VIDEOGRAPHER: Good
2 morning. We are on the record.
3 Today's date is September the 22nd,
4 2022, and we are going on the record
5 at 9:14 a.m.

6 This is the video deposition of
7 Matt England in the matter of Pork
8 Antitrust Litigation. The case number
9 is 18-1776 (JRT/HB).

10 This deposition is taking place
11 at Husch Blackwell, Kansas City,
12 Missouri.

13 Will the court reporter please
14 swear in the witness.

15 * * *

16 MATTHEW ENGLAND,
17 having been first duly sworn, testified as
18 follows:

19 * * *

20 EXAMINATION

21 * * *

22 BY MR. SHIFTAN:

23 Q. Good morning, Mr. England.

24 A. Good morning.

1 So the marketing agreement is a
2 pretty unusual document. So part of
3 the challenge for Triumph, the
4 producers were concerned about how do
5 we get our product sold because you
6 have to have a sales system. You have
7 to have codes and brand information,
8 et cetera.

9 So they entered into this
10 agreement with Seaboard. And it's an
11 interesting document because it's not
12 like what we might encounter in normal
13 pork processing operations with, like,
14 a co-packer, for example.

15 So sometimes what happens for a
16 processor is they might either pay
17 somebody a fixed fee to do some
18 element of processing. So let's say
19 we wanted to do co-packed hams. We
20 might pay a company to do the smoking,
21 injecting, slicing, and packaging of
22 the hams and give them back to us, and
23 they'd receive only a fee.

24 Or the other model is you sell

1 the hams to the co-packer and then you
2 buy them back. Well, that's not what
3 this arrangement is.

4 This arrangement is a little
5 bit more analogous to kind of buying
6 half of Seaboard's sales force.

7 So what happened, Triumph
8 entered into this agreement, and for
9 pork, Triumph was precluded from
10 selling or to making marketing efforts
11 directly or indirectly for the
12 products produced at the St. Joe
13 plant.

14 In exchange, Seaboard Foods
15 assumed the obligation to market the
16 products from the St. Joe plant and to
17 get the highest aggregate margins for
18 the products, to handle scheduling, to
19 handle distribution, and to do so in a
20 non-discriminatory way.

21 So the marketing agreement is a
22 little bit unusual because part of the
23 challenge is what you have to do in
24 monitoring the agreement is to make

1 sure you're indifferent.

2 So the classic example, if I
3 was telling somebody, if Seaboard was
4 producing a high-value Japanese export
5 loin, right.

6 So both plants from their
7 inception were designed with
8 capabilities to produce high-quality,
9 long-shelf-life product to export to
10 the most valuable market in the world,
11 and if that loin was scheduled for
12 Guymon, Oklahoma, and another type of
13 loin, a different style, different
14 production, but with less margin, was
15 scheduled for St. Joe and that
16 happened on a regular basis, that
17 could be problematic in terms of what
18 total returns are.

19 So the way the marketing
20 agreement works is it allows for each
21 entity to receive back their cost of
22 production based on a standard
23 calculation.

24 And then margins are shared

1 seems like a strange way of phrasing
2 something if it was an internal
3 document, like, if it was a note from
4 me to Joe or Joe to Rick or somebody.

5 But yeah, my testimony was that
6 I was unsure exactly who authored or
7 who was involved in the preparation of
8 this draft.

9 I do remember there was a
10 notable change when we did the
11 financing with Bank of America, their
12 people were much more involved in kind
13 of putting together the documents and
14 records.

15 I think Bank of America does a
16 lot more business for syndicate
17 lending than the Farm Credit System.

18 BY MR. SMITH:

19 Q. And I believe you also
20 testified that the reference on -- in this --
21 references in this document were to Triumph
22 member-owned sows, not Triumph-owned sows,
23 correct?

24 A. Yeah. I think --

1 MR. SHIFTAN: Objection to
2 form.

3 THE WITNESS: I think what
4 happened was I kind of explained to
5 plaintiffs' counsel that effectively
6 in this business is a shorthand, that
7 everybody would have understood that
8 Triumph Foods in this context for hog
9 producers referred to the Triumph
10 members.

11 And I think when I went through
12 here, I identified, it's clearly
13 referenced in that table who the
14 members are, and it's their sows that
15 are aggregated, much like -- and I
16 think I gave counsel the example of
17 the Pipestone system or the Carthage
18 system or other producer collectives.

19 BY MR. SMITH:

20 Q. You also referenced the
21 context -- the financials and the overall
22 context of this agreement in which, I believe
23 you said as well, made it very clear that
24 Triumph does not own sows and had no sow

1 operations, correct?

2 A. Right.

3 MR. SHIFTAN: Objection to
4 form.

5 THE WITNESS: There would not
6 have been any confusion. When we put
7 together the lending documents they
8 would have had our financial
9 statements. The financial statements
10 would have had footnotes that
11 described our business, which is pork
12 processing.

13 But it would not have had sows.
14 It would not have had piglets. It
15 would not have had inventory
16 associated with raising pigs, futures
17 contracts associated with grain.

18 When the banks formed the
19 covenants for the loan, they wouldn't
20 have had a security interest and they
21 would not have had a security in any
22 hog production assets since Triumph
23 has no hog production assets.

24 BY MR. SMITH:

1 Q. Okay. And I'd like to, if we
2 could, turn to a couple other pages that
3 counsel did not show you. If you could go to
4 the page Bates-stamped in the bottom
5 TRI373911. That's page 5 of the draft
6 presentation.

7 Do you see at the top it's --
8 again, we're early in this document.
9 "Transaction Summary." There's a section
10 heading "Introduction"?

11 A. Introduction, yes.

12 Q. And below -- at the very bottom
13 of the page there's a paragraph, and I'm just
14 going to read it. "Formed and owned by a
15 small group of independent hog producers (the
16 "Members"), Triumph began operations in
17 January of 2006. The Members include some of
18 the most recognized and successful hog
19 producers in the nation and, in aggregate,
20 would represent the second-largest hog
21 producer in the US."

22 Mr. England, is that consistent
23 with your understanding that Triumph was
24 consistent in representing that the members,

1 number of sows that they produce, an
2 estimated number of pigs that they deliver to
3 Triumph.

4 Importantly, generally
5 speaking, the number of sows that they have
6 would result in a number of pigs greater than
7 their delivery obligation.

8 And then it also generally, for
9 each of the members, identifies their
10 ownership percentage in Triumph Foods.

11 In a few of them, so, for
12 example, in Allied Producers' Cooperative, it
13 acknowledges the fact that that member is
14 made up of a group of multiple family-owned
15 producers, and so they are kind of a small
16 aggregate group within our larger aggregate
17 group.

18 It also gives kind of some just
19 basic background talking about Eichelberger
20 Farms, a family-owned operation that Dave
21 Eichelberger and his family started in 1972.

22 Q. In addition, as with the
23 previous bulleted list that we looked at, I
24 believe on page 6, do these bullets tell us

1 anything about sow ownership associated with
2 the members of Triumph farms?

3 MR. SHIFTAN: Objection. Form.

4 THE WITNESS: Triumph --

5 BY MR. SMITH:

6 Q. I'm sorry. Do these -- let me
7 strike that.

8 Again, consistent with what we
9 looked at on page 5 of this -- 6 of this
10 document, do these bullets tell us anything
11 about sow ownership by the members of Triumph
12 Foods?

13 MR. SHIFTAN: Same objection.

14 THE WITNESS: So these bullets
15 talk about the sows that are owned by
16 the members of Triumph Foods. There
17 are no sows owned by Triumph. You
18 know, for an example, what I just
19 said, I mean, Dave Eichelberger
20 started his hog farming operations in
21 1972. He owned sows before Triumph
22 was even conceived and he continued
23 his ownership after Triumph was
24 started.

1 He did not transfer his
2 ownership of his sows. He bought
3 equity in the Triumph processing plant
4 and he signed a member HPA.

5 BY MR. SMITH:

6 Q. And I believe you've testified
7 to this previously, but just to be clear, do
8 you believe there was any confusion, at least
9 in this document, or frankly, in the pork
10 industry, as to whether or not Triumph had
11 live farm operations and owned sows?

12 MR. SHIFTAN: Objection to
13 form.

14 THE WITNESS: It's a little
15 difficult for me to give a complete
16 answer to that because Triumph Foods,
17 we're different than other hog
18 companies.

19 I mean, we are not involved in
20 the sales of our pork products. We
21 don't raise pigs. We just process.
22 We don't go around to the industry
23 very often with communications. We're
24 pretty self-focused.

1 But I believe not only would
2 the bankers and lenders who are
3 associated here understand that
4 Triumph Foods doesn't own sows, the
5 industry would understand that Triumph
6 Foods doesn't own sows, the customers
7 would understand that Triumph Foods
8 doesn't own sows. Legislators and
9 other people who interact with our hog
10 producers across the states would
11 understand that those sows are owned
12 by Christensen Farms or New Fashion
13 Pork or Eichelberger.

14 I think generally and fairly
15 easily it can be discerned that
16 Triumph Foods does not own sows.

17 BY MR. SMITH:

18 Q. Does Triumph grow hogs?

19 A. Triumph doesn't raise any pigs.
20 We don't contract any barns. We don't own
21 any feed mills. We don't buy any grain. We
22 don't raise pigs.

23 Q. And I believe you said that
24 would be clear from anyone who looked at any

1 of Triumph's audited financial statements,
2 correct?

3 MR. SHIFTAN: Objection to
4 form.

5 THE WITNESS: I believe that it
6 would be clear if you looked at our
7 audited financial statements. I mean,
8 part of the challenge is they're --
9 and we talked about this earlier when
10 plaintiff -- counsel was asking
11 questions.

12 You know, it's important to
13 understand pork isn't chicken, and so
14 there's a much longer lifecycle from
15 when you breed the sow to when you
16 deliver animals.

17 And so you build up a
18 tremendous amount of inventory, and
19 customarily, I think the standard
20 practice for most people who are
21 feeding pigs would be to have
22 derivative contracts associated with
23 soybean meal or corn.

24 We don't have any of those

1 contracts. We don't have the
2 inventory associated with live pigs.
3 We don't have contracts or other
4 things in place with feed milling
5 operations or transportation.

6 We don't disclose any of that
7 on our financial statements. And we
8 don't have to because that's not the
9 business we're in.

10 BY MR. SMITH:

11 Q. Has Triumph ever had live farm
12 or sow operations?

13 A. No, we have never had live farm
14 operations or sow operations.

15 Q. Has Triumph ever owned sows?

16 A. We have never owned sows.

17 Q. And I assume this is fair, but
18 if Triumph has never owned sows, has Triumph
19 ever reduced a sow herd?

20 A. We have never --

21 MR. SHIFTAN: Objection to --

22 * * *

23 (Court reporter clarification.)

24 * * *

1 BY MR. SMITH:

2 Q. Has Triumph ever reduced a sow
3 herd?

4 MR. SHIFTAN: Objection to
5 form.

6 THE WITNESS: We don't have a
7 sow herd to reduce. And we don't have
8 the ability to make that decision.

9 We've never made that decision. And
10 it -- it's -- part of the thing about
11 it is talking about sows is really a
12 complete misunderstanding of what we
13 do.

14 At Triumph Foods, we process
15 market hogs. And sows are related to
16 market hogs but the relationship is
17 not one to one.

18 So there are some hog producers
19 who have a lot of sows but they may
20 not have very much output. Maybe they
21 have raised those pigs in an area
22 that's hot or they have disease or
23 other morbidity challenges.

24 But over time, and if you look

1 at the publicly available USDA
2 information, sows become more
3 productive. So just because you have
4 a sow, over time, you'd actually
5 produce more pigs, and if the pigs
6 were healthier or if they were
7 impacted by morbidity, it would change
8 the delivery.

9 So part of the challenge that's
10 interesting on that question is we
11 don't care about sows. Our contracts
12 are only for pigs delivered to our
13 plant.

14 BY MR. SMITH:

15 Q. And is it safe to say that
16 Triumph has procured or purchased every hog
17 that it has ever processed from -- strike
18 that.

19 Is it fair to say that Triumph
20 has processed every hog that it has ever
21 purchased from hog producers?

22 MR. SHIFTAN: Objection to
23 form.

24 THE WITNESS: None of them

1 ended up as pets, right. So whatever
2 we process -- now, I want to be -- so
3 for kind of complete accuracy, when
4 pigs come in, if a non-market hog is
5 delivered, so let's say it's a pig
6 that has a tail bite abscess, a water
7 belly -- Debbie, am I at, like, 300
8 words a minute?

9 THE REPORTER: Kind of, yes.

10 THE WITNESS: I apologize.
11 Please feel free to pipe in. I want
12 to make sure it's accurate.

13 So if we have a defect with a
14 pig that comes in, those would be a
15 resale pig. And generally, we could
16 process those, although the USDA would
17 kind of frown upon it because we want
18 to make wholesome pork. And we're not
19 a cold hog operation. We're a market
20 hog operation.

21 So we usually resell those pigs
22 so that we can continue to maximize
23 throughput, but we don't process
24 boars. We don't process sows.

1 When we receive the pigs, we
2 don't pay for the pigs until they've
3 been dressed, and we pay for them at
4 the hot scale. There's probably a
5 couple of times when we've paid for a
6 pig because it stayed in the yard for
7 longer than 24 hours, but every pig
8 that we've ever paid for at Triumph
9 Foods, we paid for it and we received
10 it with the original intent of
11 processing that pig and turning it
12 into pork.

13 BY MR. SMITH:

14 Q. So fair to say Triumph doesn't
15 have any interest in any hog or hog product
16 until it receives them and processes them at
17 the Triumph facility?

18 MR. SHIFTAN: Objection to
19 form.

20 THE WITNESS: No, we don't have
21 any interest in contract pigs. We
22 don't procure them ahead of time. We
23 have contracts, but we don't go out
24 and kind of essentially, like, sort of

1 purchase them on the farm knowing
2 they're coming to us.

3 To my knowledge -- and this
4 would be a better question for Jerry
5 Lehenbauer -- but I don't believe that
6 we actually have an account at the
7 Mercantile Exchange to even buy hog
8 futures.

9 We don't do that as a part of
10 our procurement. We have negotiated
11 transactions, formula transactions,
12 and hog contracts.

13 BY MR. SMITH:

14 Q. Does Triumph have any ownership
15 interest in any of its members?

16 A. No.

17 Q. Has it ever?

18 A. No.

19 Q. Does Triumph have any control
20 over the size of its members' sow herds?

21 A. No.

22 Q. Has it ever?

23 A. No.

24 Q. Does Triumph have any influence

1 over the size of its members' sow herds?

2 A. No.

3 MR. SHIFTAN: Objection to
4 form.

5 THE WITNESS: And that's one of
6 those where more than just a simple
7 no. It's important to understand.

8 The members produce more pigs
9 than we need, and they produce them in
10 different geographies.

11 So not only do I not have any
12 say in how many sows Dave Eichelberger
13 has, but it really wouldn't be
14 appropriate because I've got five
15 minority shareholders, members, in the
16 company, and to try to influence what
17 they do with their sow production
18 would be inappropriate given their
19 different circumstances, different
20 markets, different history, different
21 relative sizes.

22 BY MR. SMITH:

23 Q. And not just sow production,
24 but does Triumph have any control over the

1 total number of hogs produced by its members?

2 A. We have no --

3 MR. SHIFTAN: Objection to
4 form.

5 THE WITNESS: -- control over
6 the total number of -- the only thing
7 we control at Triumph Foods is our
8 ability to operate our plant. And
9 every day we operate our plant to try
10 to process as many pigs as we can.

11 BY MR. SMITH:

12 Q. Okay. I think you just
13 answered this, but do you -- and you may not
14 have direct knowledge of this, but I'm
15 curious. Do you know if Triumph members are
16 then selling hogs to hog processors --
17 processors that are not Triumph Foods?

18 MR. SHIFTAN: Objection to
19 form.

20 THE WITNESS: So we don't get
21 involved in the members' business
22 outside of Triumph. But I told you
23 that based on what their sows were and
24 based on what's in this document, I

1 believe -- and I'm not exactly sure
2 which page it is. We can flip to it
3 if it's necessary.

4 But it refers to 8 million
5 market pigs being produced as an
6 estimate, and that's greater than what
7 we processed.

8 I mean, we started out and we
9 processed, you know, around 4 or 5
10 million pigs. We got up to 6 million,
11 kind of 6.1 at our peak, but 8 is
12 beyond that.

13 And unless there's a new trend
14 in American companion animals, those 2
15 million pigs didn't show up in
16 households. So somebody had to
17 process them, and they were
18 responsible for making those
19 arrangements.

20 BY MR. SMITH:

21 Q. All right. Thank you,
22 Mr. England. I want to ask you a few more
23 questions about some of the documents that
24 counsel showed you.

1 A. Are we done --

2 Q. And we can put this one -- yes,
3 we're done with that one. And we can
4 probably put this one on the screen. I don't
5 know that we need to dig for it. This is
6 Plaintiffs' Exhibit, I believe, 2066.

7 MR. SHIFTAN: Do you have the
8 tab number still?

9 MR. SMITH: I think it's JJ.
10 BY MR. SMITH:

11 Q. Mr. England, can you see what
12 has been put on the screen as Plaintiffs'
13 Exhibit 2066?

14 A. I can.

15 Q. Do you recognize this document?

16 A. This is what we were just
17 talking about with plaintiffs. This was --
18 appears to be an e-mail sent from me to Shane
19 Brewer.

20 Q. And counsel didn't ask you a
21 single question about this document, did he?

22 A. I think we talked --

23 MR. SHIFTAN: Objection to
24 form.

1 A. Well, I set this aside while I
2 was flipping through the exhibit when
3 plaintiffs' counsel gave it to me.

4 And I -- so I remember this
5 chart for a couple different reasons. But I
6 believe what this was was a survey of the
7 buyers of our product. So Seaboard
8 engaged -- and they may have engaged a
9 third-party survey company to do the
10 interviews to ensure they were impartial, or
11 they may have done it on their own. I don't
12 recall the specifics.

13 But effectively, they were
14 asking buyers of pork, probably likely
15 plaintiffs, although I don't know. I don't
16 have the specifics. I'm sure there's some
17 sort of record. But attributes about
18 Seaboard's sales of pork relative to other
19 providers of pork in the industry.

20 So this table has Seaboard
21 Foods, has Smithfield/Farmland, Tyson,
22 JBS/Swift, Hormel, and Other.

23 And what it says in it, it says
24 a couple of things that I think are pretty

1 interesting. It says that, you know,
2 Seaboard did a good job of delivering
3 available product, service, response. The
4 product quality is decisively in favor of
5 Seaboard Foods, and probably from an overall
6 margin maximizing standpoint, I don't know if
7 this is the case, because being the best in
8 quality and the best in value is probably not
9 always a winner, but it's an opportunity
10 where the customers said that what they were
11 buying, they believed that they were getting
12 good value for their money's worth in terms
13 of competitive pricing, product availability,
14 and price/quality ratio.

15 Q. Thank you, Mr. England.

16 I'd like to ask a little bit
17 more about the St. Joe facility. Does -- how
18 many -- how many shifts does Triumph operate
19 at St. Joe?

20 A. Triumph operates a day shift,
21 an A shift and a B shift. So we have a
22 two-shift kill. There's a sanitation shift
23 that gets cleaned up overnight, but the
24 facility -- and it's -- it's gigantic. It's

1 800,000 square feet.

2 The way you kind of generally
3 would refer to the facility is a two-shift
4 plant because we have two shifts of
5 inspection. Every day we've got, you know,
6 11 federal inspectors available per shift for
7 operations.

8 We're never operating without
9 federal inspection. And so each shift has
10 those 11. There's 22 in total. And that's
11 our regular operating schedule.

12 Q. Is a two-shift approach common
13 among pork processors?

14 A. No. Well, let me kind of
15 clarify. There are a number of two-shift
16 plants in the US. But there's an awful lot
17 of one-shift plants.

18 If you take a look at the
19 Agri Stats summaries, you'll see, you know,
20 kind of dramatically different processing
21 volumes. Those would be one-shifters, like
22 Monmouth that I recently just talked about.

23 Recently -- it's -- I think if
24 you go way back in time, the two-shift plant

1 was more common. So, for example, I talked
2 about the Sioux Falls plant that's been
3 around since the early 1900s, but in almost
4 the last 30 years, kind of going from the
5 construction of Guymon to today, you know,
6 Guymon was built, Milan was built, St. Joe
7 was built, Windom was built, Rantoul was
8 built, Moon Ridge, Prestage, Clemens'
9 Coldwater plant, Sioux City.

10 You look at all those and
11 even -- and in the press, Wholestone has made
12 significant investments in its Fremont plant
13 to add the capability to process a second
14 shift.

15 But of all the plants I listed,
16 there are only three plants that have
17 successfully gone to double shift, even
18 though, like, the Clemens plant in Coldwater
19 or the Prestage plant in Eagle Grove are
20 constructed state-of-the-art plants; they are
21 big enough to support a second shift. But
22 the challenge is, is that actually pulling
23 off a second shift is pretty difficult.

24 I mean, we've gone on each

1 shift, you know, a little bit more than a
2 thousand people, and having people that come
3 in at night and are willing to do that and
4 all the people that have to support it and
5 clean, you have to be able to clean a very
6 large facility in a hurry.

7 It takes obviously more time to
8 clean a bigger facility -- or more work to
9 clean a bigger facility -- but in a two-shift
10 operation, you have substantially less time
11 for a cleaning cycle than you do in a
12 one-shift operation. So there are --

13 * * *

14 (Court reporter clarification.)

15 * * *

16 THE WITNESS: So there are
17 two-shift plants, and I wouldn't
18 necessarily say they are uncommon, but
19 in recent history, they're relatively
20 uncommon. There's a lot more
21 operating at one-shift right now.

22 BY MR. SMITH:

23 Q. Just to clarify, in recent
24 history, of those you listed, which ones, if

1 you know, were able to successfully achieve a
2 second shift?

3 A. To my knowledge, Guymon,
4 Oklahoma, and that's Seaboard's plant.

5 Q. Okay.

6 A. St. Joseph, Missouri, Triumph's
7 plant, and Sioux City, Iowa, the Seaboard
8 Triumph Foods plant.

9 Q. Okay. Thank you, Mr. England.
10 I'd like to ask you a couple
11 questions about the allegations in this case.
12 Obviously, you're aware that Triumph is a
13 defendant in this antitrust litigation.
14 That's why we're here today.

15 And I think you testified
16 earlier you have a general understanding of
17 who the plaintiffs are, correct?

18 A. I do. I -- I mean, I know that
19 there's opt-outs and other things. I looked
20 at the Third Amended Complaint. So in my
21 mind, it's buyers of pork.

22 Q. I'm going to read to you a few
23 of the allegations that plaintiffs have made
24 in this case, and I'd like to get your

1 response or reaction to those. Is that okay?

2 A. Yeah.

3 Q. During 2009, Triumph reduced
4 the number of sows that it had from 396,000
5 to 371,500. How would you respond to that
6 allegation, Mr. England?

7 A. Well, a couple of things.

8 First of all, Triumph Foods
9 doesn't have any sows. So on its face,
10 that's incorrect.

11 And, I mean, I don't know what
12 the implications are because that many sows
13 doesn't have anything to do with Triumph
14 Foods' ability to fully operate its plant and
15 produce at optimum and deliver pork into the
16 market.

17 So we don't have any sows, and
18 any of that change would not have affected
19 Triumph's ability to produce pork.

20 Q. Okay. In 2009, Triumph
21 reported substantial cutbacks of
22 approximately 24,500 sows representing over
23 6 percent of its sow herd.

24 How would you respond to that

1 allegation, Mr. England?

2 A. So much like the previous
3 question. And we went through this
4 extensively. Triumph doesn't have any sows.
5 So the first part would be Triumph couldn't
6 have made any cuts, didn't make any cuts in
7 its sow herd because it didn't have a sow
8 herd.

9 The second thing is -- and I
10 talked about this a little bit earlier in my
11 testimony. We're interested in pigs, and so
12 if -- if I said I've got a plant with
13 generally a fixed capacity, and every day
14 we're processing a certain number of pigs --
15 and you have to do that because the way you
16 have flows through the system. So pigs are
17 born from sows on sow farms and then they go
18 to potentially nurseries or finishers in a
19 wean-to-finish operation. And there's a flow
20 because pigs go to market and then new pigs
21 come in.

22 So once you have that flow, all
23 other things equal, just given the general
24 trend -- and you can see this in USDA

1 numbers -- productivity of the sows is
2 increasing.

3 And things like the circovirus
4 vaccine are introduced all the time, so not
5 only do the sows give more piglets, but when
6 the circo vaccine comes in, those piglets are
7 more likely to thrive and come to market.

8 So if you had a fixed finisher
9 system, you would, over time, have to reduce
10 your sows just in order to make sure that you
11 didn't produce pigs that you didn't have any
12 ability to finish.

13 So I think there's a couple of
14 different things. I don't want to get too
15 carried away or give Debbie carpal tunnel.

16 Triumph doesn't own any sows
17 and could not and did not make any decisions
18 to reduce its sow herd. And the decision or
19 the reduction made by anybody out in the
20 market related to sows does not by itself
21 necessarily influence the availability of
22 market hogs, which is what we process at our
23 plant to produce pork.

24 Q. Okay. Next one: Triumph

1 reduced the number of sows by 14,500 at its
2 Christensen facility.

3 A. Without repeating all the
4 caveats before, we don't own sows. We don't
5 own the Christensen facility. We didn't make
6 any decisions to reduce sows.

7 Q. Has Triumph ever owned a
8 Christensen facility?

9 A. We've never owned a Christensen
10 facility.

11 Q. To the extent that phrase
12 refers to Christensen Farms, does Triumph own
13 Christensen Farms?

14 A. Triumph does not own
15 Christensen Farms.

16 Q. Does Triumph have control over
17 the number of sows maintained by Christensen
18 Farms?

19 A. We have no control --

20 MR. SHIFTAN: Objection to
21 form.

22 BY MR. SMITH:

23 Q. How about the number of hogs
24 produced --

* * *

(Court reporter clarification.)

* * *

THE WITNESS: We have no control over the sows that Christensen makes. We have no control over the number of pigs that they produce. We don't have control over their approaches with marketing, target weights, other things.

Those decisions are all made by Christensen Farms, and they have a staff that does that on their behalf.

Q. Okay. Next one: Triumph reduced the number of sows by 4,000 at its New Fashion Pork facility.

How would you respond to that allegation, Mr. England?

A. I'm going to sound a little bit like a broken record, but Triumph Foods doesn't have any sows. Triumph Foods didn't make any decisions to reduce sows. Triumph Foods doesn't have a New Fashion facility. Triumph Foods has never had a New Fashion

1 facility. Triumph Foods makes no decisions
2 about New Fashion Pork facilities.

3 Q. Okay. Next one: Triumph
4 reduced the number of sows by 5,000 at its
5 Eichelberger facility.

6 How would you respond to that
7 allegation, Mr. England?

8 A. Triumph doesn't have any sows.
9 Triumph didn't make any decisions to reduce
10 sows. Triumph doesn't have an Eichelberger
11 facility. Triumph doesn't make any decisions
12 about Eichelberger operations or facilities
13 or sow numbers.

14 Q. Has Triumph ever had an
15 Eichelberger facility?

16 A. Triumph has never had an
17 Eichelberger facility.

18 Q. Next one: Triumph and Seaboard
19 have a longstanding marketing agreement where
20 hogs processed by Triumph were marketed by
21 Seaboard.

22 How would you respond to that
23 allegation, Mr. England?

24 A. Talked to plaintiffs' counsel

1 about it. We have a marketing agreement and
2 we hired Triumph -- or Seaboard Foods to
3 market and sell all of the products produced
4 out of the St. Joe plant.

5 Q. So that one is true?

6 A. It is true.

7 Q. Okay. Next one: Thus, the
8 reduction in supply of sows raised by Triumph
9 may result in a reduction in the amount of
10 pork that was sold by Seaboard.

11 How would you respond to that
12 allegation, Mr. England?

13 A. So I want to do that in two
14 parts. First, and I hope I can just kind of
15 refer to my previous testimony about the
16 relationship of sows and productivity and why
17 that doesn't matter.

18 But I also -- I prepared a
19 schedule today to help kind of talk a little
20 bit about Triumph Foods and its history, and
21 what's important to understand is we've had
22 nothing but increased growth at Triumph
23 Foods. I think actually, if you look in the
24 marketing agreement or in the Premium Pork

1 to 1,144,343,100 pounds carcass weight
2 to sell. So an increase of over 50
3 million pounds.

4 So I think part of the
5 challenge here is that the allegations
6 are -- I mean, they're not accurate
7 because we don't own sows. They're
8 not accurate because they're not tied
9 to pork.

10 And they're not in any way
11 accurate because Triumph Foods has an
12 almost unbroken chain of increasing
13 pork production in the sale of pork
14 into the market.

15 BY MR. SMITH:

16 Q. Thank you, Mr. England. Next
17 one: In August 2009, Smithfield considered
18 publishing an op-ed saying Seaboard had not
19 taken steps to reduce its pork supply but,
20 quote, "withdrew it after receiving
21 assurances that Triumph was in the process of
22 reducing its production levels by
23 approximately 32,000 sows, an 8 percent
24 reduction from its 2007 levels."

1 How would you respond to that
2 allegation?

3 A. First of all, I have no idea
4 what Smithfield or Seaboard or anybody would
5 have thought or how that originated or any
6 other process that would relate to a
7 reduction.

8 What I do know is that in 2007,
9 we made a multimillion dollar expansion for a
10 new equilibration bay at Triumph Foods. In
11 2008, we added a capacity to our snap chill
12 to allow us to process bigger pigs and
13 produce higher quality.

14 In 2009, we expanded our
15 capacity all the way up to 19,000. In 2013,
16 we made an additional capital expansion. So
17 right after we built the most -- the newest
18 state-of-the-art facility in 2006, by
19 November of 2007, we were investing in
20 capacity expansions on the newest plant in
21 the industry. And, again, in 2013, we were
22 expanding beyond that.

23 In 2014, because we were
24 limited because we couldn't process under the

1 HIMP program at rates beyond 1,106, we added
2 new positions to enable continuous throughput
3 in terms of processing to take our total
4 processing capability above 21,000.

5 And so the idea that there was
6 some change in pork production orchestrated
7 by Triumph Foods at the same time while
8 Triumph Foods is actively and demonstrably
9 increasing the supply of pork on the market,
10 not only because we're processing more pigs,
11 but during this time we're increasing the
12 overall weights of the pigs so each
13 particular pig brought to market is producing
14 more pork.

15 Q. Okay. Last allegation: In
16 February 2017, Seaboard and Triumph Foods
17 announced plans to expand their joint
18 processing -- pork processing facility in
19 Sioux City, Iowa, operated by their 50-50
20 joint venture, Seaboard Triumph Foods LLC, to
21 include a second shift.

22 In announcing the potential
23 second shift, Mark Porter, Seaboard Triumph
24 Foods chief operating officer, stated, quote,

1 "The timing of the expansion for a second
2 shift is a result of growing demand for the
3 Seaboard Foods' line of quality pork
4 products, as well as ongoing growth in the
5 industry," close quote.

6 However, consistent with the
7 conspiracy, Triumph Seaboard postponed the
8 addition of a second shift.

9 How would you respond to that
10 allegation, Mr. England?

11 A. So I think the first part of
12 that allegation -- the allegation is
13 categorically wrong. But it's wrong in such
14 a big way that it needs a little bit more
15 detail.

16 So the first part of the
17 statement that you started reading was
18 February, right? So there's a February
19 announcement. Now, what -- I don't have
20 anything in front of me, but I believe you
21 said February.

22 What's important about that is
23 the plant wasn't fully constructed in
24 February. The plant began operations in

1 on.

2 MR. SMITH: We did ask, and I
3 thought everyone was ready, so --

4 MR. SHIFTAN: I certainly
5 didn't say I'm on, given that I
6 wasn't. We were in the breakout room.

7 MR. SMITH: Okay. Well, I
8 apologize.

9 MR. SHIFTAN: Move to strike
10 everything before Sam says we weren't
11 in the room.

12 MR. SMITH: Okay.

13 BY MR. SMITH:

14 Q. Mr. England, is Triumph
15 vertically integrated?

16 A. No. I think the best
17 description of Triumph Foods -- and it's what
18 I talked earlier with plaintiffs' counsel
19 about, and it's what was in our documents for
20 the lenders.

21 Triumph Foods is best described
22 as a farmer-owned processor that is able,
23 because of the ownership by its farmers, to
24 achieve some of the benefits of integration

1 associated with a stable hog supply, you
2 know, understood genetics or nutrition.

3 But it's really better to
4 characterize Triumph Foods as a farmer-owned
5 processor.

6 Q. Okay. But, in fact, Triumph --
7 just to reiterate. Triumph is not vertically
8 integrated, does not own hog sow operations
9 and it does not make pork sales. Is that
10 fair?

11 MR. SHIFTAN: Objection to
12 form.

13 THE WITNESS: Correct. I mean,
14 Triumph is pretty unique. You know, I
15 can't -- I -- I don't know if there's
16 any other similar businesses where
17 we're just focused so specifically on
18 operations. We don't own pigs, we
19 don't produce pigs. We just process
20 pigs and turn them into pork. We
21 don't sell pork products. We've
22 contracted that out.

23 It's a -- Triumph Foods
24 actually, in many ways, it's almost

1 the opposite. I hadn't really thought
2 about it before I'm sitting here. But
3 it's almost the opposite because we're
4 so hyper-focused on running our plant.

5 BY MR. SMITH:

6 Q. If the cost to acquire hogs for
7 processing were to increase, what would that
8 mean for Triumph Foods?

9 A. I mean, all other things equal,
10 if the cost of pigs goes up, the profits at
11 Triumph Foods goes down.

12 Q. Okay. Do -- do Triumph pork
13 products get exported?

14 A. So Triumph was built for the
15 export market, but a couple of things.

16 I know that there were, at
17 least in the Third Amended Complaint, some
18 statements about exports. And I think,
19 again, it goes to people probably not
20 understanding, you know, just pork is pork,
21 right?

22 For example, if you were
23 familiar with the chicken industry, you kind
24 of think chicken breast or thighs, and

1 they're kind of interchangeable. But when
2 you think about the products that we
3 produce -- I'll slow down for a second,
4 Debbie.

5 For most customers, the
6 products we produce like pork loin are
7 certainly distinguishable from ribs and even
8 more distinguishable from stomachs or pork
9 rectums, right?

10 I remember when I first joined
11 Triumph, I told plaintiffs' counsel, I was an
12 accountant and not from a processing
13 background. I wasn't a meat scientist. And
14 I remember the first thing that one of my
15 friends asked me was is it true what they say
16 about hot dogs? And I thought, well, no,
17 it's not true. All that stuff is way too
18 valuable to go into hot dogs.

19 So things like stomachs and
20 snout and rectums, while they're not a part
21 of the traditional or predominant American
22 diet, we get high prices for pork rectums
23 from South Korea. We get high prices for
24 scalded stomachs in China.

1 Q. Did Triumph's overall export
2 strategy change significantly at any point
3 between when you started at Triumph and
4 today?

5 A. I don't think so. I mean, I
6 think the tactics of how we achieved exports
7 probably changed. Plaintiffs' counsel
8 identified with that first amendment that we
9 made some investments in the plant to produce
10 particular types of product styles.

11 So over time, we would have
12 made, you know -- let me pause for a second.

13 Again, different than chicken
14 breast. A pork loin can be trimmed in any
15 number of different styles. So to say, like,
16 the price of pork loins means maybe an
17 aggregate yielded back, but there can be a
18 whole range of different prices.

19 So, for example, when we first
20 started selling, we sold what's called
21 chilled fresh pork loins for Japan. That's a
22 product that we can sell out of the United
23 States and Canada, but European competitors
24 are unable to sell because the shipping times

1 are just too long.

2 And there's a premium. The
3 premium is largely derived because it takes
4 time to get from the US to Japan, and so that
5 additional age creates more elements of
6 tenderness and quality.

7 But over time, we also started
8 to compete in producing frozen loins because
9 we had the capability of producing a
10 high-quality frozen loin, so quick chilled so
11 it maintained color and processing
12 attributes. And we had the skill and the
13 labor to do the type of supplemental trimming
14 that was necessary to produce that product.

15 So there were, I would call
16 them, tactical adjustments in terms of how we
17 service the markets. Other markets, maybe
18 value-added markets like China or Russia may
19 have changed over time depending on the
20 political situation with the US and Russia or
21 requirements for the import of meat, but
22 exports have always been important and remain
23 important.

24 Q. I think you said this, but

1 Seaboard handles all of the export of
2 products produced at the St. Joe plant?

3 A. Right. For the sale of pork,
4 when Triumph signed the marketing agreement,
5 we agreed that we would not engage in direct
6 or indirect efforts to market our pork
7 products and that Seaboard would handle and
8 be obligated to handle the sale of those
9 products.

10 Q. Do you know if Seaboard ever
11 exported pork for the purpose of affecting
12 domestic pork prices in some sway?

13 A. First of all --

14 MR. SHIFTAN: Objection to
15 form.

16 THE WITNESS: -- I can't
17 testify to what would have been in the
18 minds of anybody at Seaboard, but to
19 my knowledge, Seaboard would never
20 have exported products to affect
21 domestic prices.

22 I think at all times Seaboard
23 would have -- I hope that they would
24 have because it's their obligation --

1 maximize aggregate margins and find
2 the best homes for the products that
3 were available for them to sell.

4 BY MR. SMITH:

5 Q. Are you familiar with the
6 concept of a distressed sale?

7 A. Yeah. So let's say a good
8 example would be we produce a product and we
9 ship it and it gets rejected. Maybe a
10 customer's plant is down. Maybe there's a
11 quality complaint or a foreign material
12 complaint.

13 So a product leaves. The
14 product comes back to the plant, maybe gets
15 reworked.

16 It's going to seem kind of
17 funny, but the shelf life on the meat that we
18 produce at the plant is pretty long, much
19 longer than what you're used to buying if you
20 just bought fresh pork at your grocery store,
21 right, because we start at the very beginning
22 of the chain.

23 And at Triumph Foods, the shelf
24 life is a little bit longer just because of

1 A. Extensively.

2 Q. Topic 17: High-level testimony
3 on Triumph's efforts to monitor packer
4 competition.

5 Mr. England, were you prepared
6 to provide testimony on this topic today?

7 A. I am.

8 Q. And do you have an
9 understanding of what efforts, if any,
10 Triumph took to monitor packer competition?

11 A. I think I've talked about
12 benchmarking. I think I've talked about
13 understanding of publicly available reports.
14 In terms of monitoring overall production,
15 Triumph Foods was focused on maximizing the
16 throughput of the Triumph Foods facility.

17 Q. Topic 18: High-level testimony
18 on Triumph's systems and mechanisms for
19 analyzing, budgeting or forecasting its
20 processing volume and/or production of
21 processed pork.

22 Mr. England, were you prepared
23 to provide testimony on this topic today?

24 A. I am prepared.

1 Q. And do you believe you did
2 provide testimony on this topic today?

3 A. I don't know if we've covered
4 that already. I mean, our -- we have
5 contracts that dictate what we're going to
6 produce, and usually sometime in the fall of
7 each particular year, Jerry Lehenbauer sends
8 out a calendar and says next year we're going
9 to work 280 days or 283 days. Every once in
10 a while, a Saturday gets added.

11 Although I will say, for
12 anybody who's looking at this schedule, when
13 you look at the operating days, remember,
14 there's 52 weeks in a year. There's five
15 weekdays, so 260 days. We observe Memorial
16 Day, 4th of July, Labor Day, Thanksgiving,
17 New Year's, and Christmas. So we observe six
18 of those.

19 If we just worked weekdays and
20 we didn't work on holidays, that would mean
21 our operating schedule would be 254 days.
22 But you can see that we would be working
23 usually in excess of 30 Saturdays. And it's
24 a lot of work.

1 As Debbie and I were talking
2 earlier, it's, you know, a lot of hand
3 exercises and tough work. But I think the
4 team at Triumph Foods has always been very
5 interested and takes a tremendous pride in
6 maximizing the facility and what we do.

7 Q. If I'm reading this right, it
8 looks like for a large period of that period,
9 at least from 2008 to 2018, you were around,
10 looks like, what, 290 days a year?

11 A. Yeah. The most -- some of this
12 was probably a consequence -- the highest
13 days were 2014 and after. Remember, I told
14 you we contracted so many pigs that if they
15 all showed up, they would have been back to
16 City Hall.

17 The challenge is those
18 contracts didn't necessarily end right at the
19 end of 2014, and to the credit of the US hog
20 production industry, the PEDv epidemic really
21 ended as a significant impact on production
22 pretty rapidly in 2015.

23 So they got back to normal
24 production. You can see fairly sharp

1 So it's certainly analysis that
2 we have done, but I believe on that topic I
3 came prepared and that I have testified on
4 that today.

5 Q. Topic 21: High-level testimony
6 on Triumph's financial relationship with
7 AgStar.

8 Mr. England, were you prepared
9 to provide testimony on that topic today?

10 A. I am. And I believe I did so
11 when we talked about the information
12 memoranda.

13 Q. Okay. Topic 22: High-level
14 testimony on Triumph's financial relationship
15 with Rabobank.

16 Mr. England, were you prepared
17 to provide testimony on that topic today?

18 A. I am.

19 Q. And what, if any, relationship
20 has Triumph had with Rabobank?

21 A. Rabobank was a member of the
22 lender significant -- syndicate. So -- and I
23 don't remember if they came into the lending
24 in the 2009 refinance or in the 2011

1 refinance.

2 But we don't have our credit
3 facility with any single bank. We have them
4 with farm credit banks as well as commercial
5 banks, and Rabobank was a lender within the
6 commercial bank system.

7 Q. Mr. England, counsel asked you
8 earlier today what you thought of the
9 allegations in this lawsuit, and I think
10 you've said several times today, at least at
11 a high level, what your reaction is.

12 But if someone were to say that
13 Triumph participated in some sort of a
14 conspiracy or cartel to reduce the supply of
15 pork in the US, how would you respond?

16 A. I mean, it's unbelievable on
17 its face. I mean, just -- and I can only
18 really talk about Triumph Foods.

19 And I think probably at this
20 point in time, everybody understands Triumph
21 Foods is a pretty unique company. There
22 aren't a lot of processor-owned companies and
23 there aren't a lot of companies in our space
24 that aren't engaged in the sale of their pork

1 products.

2 So maybe somebody who was ill
3 informed about the industry kind of saw our
4 name and thought we were like others, but
5 Triumph Foods, we operate a greenfield plant.

6 I mean, the idea that we
7 reduced pork processing -- I go to work every
8 day in a plant that was constructed in 2006.

9 I am part of a company that
10 owns another greenfield plant that's the only
11 plant that got to second shift. I mean,
12 Prestage didn't do it. Coldwater didn't do
13 it. We got it done in Sioux City and added
14 pork production.

15 And this -- and I didn't cover
16 it with plaintiffs' counsel earlier today,
17 but the allegations come across a little bit
18 more personal for me as I think about it,
19 just because, you know, I mentioned earlier
20 my responsibilities for food safety and
21 sanitation, and during this time frame, I
22 mean, I -- I was personally out on the floor
23 with a stopwatch as we were looking to shrink
24 our sanitation time, and in some cases

1 engaged in a little bit of scrubbing as well,
2 because we would say, okay, we can't run the
3 lines any faster than 1,106. The USDA has
4 capped us.

5 So the only thing we can do to
6 get more volume through this plant is figure
7 out how we can lengthen the day for our
8 harvest side.

9 And so we grew, and that's not
10 just a unique Triumph item or only within
11 Triumph's control. When we have a schedule,
12 we have to go talk to USDA. And we have a
13 union facility, so we had to negotiate
14 provisions with the union because when we
15 lengthened the schedule, for example, we
16 started out when we negotiated, because
17 that's all we knew, with two eight-hour
18 shifts.

19 Sorry, Debbie.

20 When we started to lengthen the
21 schedule, so let's say we reduced sanitation
22 by 15 minutes, what we had to do was go talk
23 to the union because after eight hours, the
24 workers are entitled to a break, and we would

1 say, guys, they're working eight hours. What
2 if we work eight hours and 15 minutes, and
3 then on top of that, we pay the 15 minutes at
4 overtime rates? Would that be acceptable?
5 Or do you want to make the people lengthen
6 their workday by an additional 15 minutes so
7 we can get this schedule? And the union said
8 we can agree to modify our contract to allow
9 you to pay the break.

10 So we engaged in all these
11 efforts and figured out how we could get the
12 most possible capacity.

13 So part of the challenge of
14 this -- and really, as I think about the
15 topic and I can kind of get emotional about
16 the topic, I mean, I've spent my career in
17 pork processing entirely at Triumph Foods,
18 and every day figured out how do I process
19 more pigs, how do I get more out of
20 rendering, can I save brains, can we save,
21 you know -- we didn't used to sell hind feet.
22 Then we figured out how we could sell hind
23 feet because there's processing attributes.

24 And I know plaintiffs don't

1 understand all of that or appreciate it, but
2 really, at Triumph Foods, we were working to
3 try to produce the highest quality, the most
4 product at the most efficient cost we
5 possibly could.

6 Q. And do you believe you did
7 everything within your power and control to,
8 in fact, produce the highest quality and the
9 most product as efficiently as you could
10 throughout the period from 2008 to the
11 present?

12 A. All the time.

13 MR. SHIFTAN: Objection to
14 form.

15 THE WITNESS: And we came up
16 with ideas to try to figure out if
17 there was something outside of our
18 control, what we could do to control
19 it to produce more product.

20 MR. SMITH: Thank you,
21 Mr. England. I have no further
22 questions at this time. Plaintiffs
23 may have some recross.

24 MR. SHIFTAN: Sure. Were you

1 going to introduce the exhibit with
2 the drawing on it?

3 MR. SMITH: Yeah, we'll have to
4 scan that.

5 MR. SHIFTAN: Okay. Why don't
6 we take a break, then.

7 MR. SMITH: Okay.

8 THE VIDEOGRAPHER: Please stand
9 by. The time is 5:30 p.m., and we're
10 going off the record.

11 * * *

12 (Recess taken from 5:30 p.m. to
13 5:39 p.m.)

14 * * *

15 THE VIDEOGRAPHER: The time is
16 5:39 p.m., and we are back on the
17 record.

18 MR. SHIFTAN: Chris, did you
19 want to formally introduce that
20 document?

21 MR. SMITH: Yeah, sure. We're
22 going to introduce as England
23 Exhibit 2 the copy of Mr. England's
24 spreadsheet that I mentioned that he

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Page 357

ACKNOWLEDGMENT OF DEPONENT

I, Matthew Euliano, do hereby
certify that I have read the foregoing pages
__ to __ and that the same is a correct
transcription of the answers given by me to
the questions therein propounded, except for
the corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

11/14/22

DATE

[Signature]

SIGNATURE

ME

EXHIBIT C

DEPOSITION OF MARK CAMPBELL FORMER TRIUMPH CEO

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: PORK ANTITRUST :
LITIGATION, : Civil No.
This Document Relates to: : 18-1776 (JRT/BH)
All Actions, :

HIGHLY CONFIDENTIAL

VIDEOTAPED ZOOM DEPOSITION OF MARK CAMPBELL

Wednesday, May 25, 2022 - 9:25 a.m.

Husch Blackwell, LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112

Kathy J. Davis, RMR, CRR, CRC

VERITEXT LEGAL SOLUTIONS
MID-ATLANTIC REGION
1801 MARKET STREET - SUITE 1800
PHILADELPHIA, PA 19103

1 May 25, 2022.

2 P R O C E E D I N G S

3 (Time noted 9:25 a.m.)

4 VIDEO TECHNICIAN: We are on the record.

5 Today's date is May the 25th, 2022. We are going on the
6 record at 9:25 a.m.

7 This is the video deposition of Mark
8 Campbell in the matter of Pork Antitrust Litigation.
9 This case number is 18-1776 (JRT/HB).

10 This deposition is taking place at Husch
11 Blackwell in Kansas City, Missouri.

12 Will the court reporter please swear in
13 the witness?

14 MARK CAMPBELL

15 was called as a witness by and on behalf of the Direct
16 Purchaser Plaintiffs, and, after having been duly sworn,
17 was examined and testified as follows:

18 EXAMINATION

19 BY MR. SHIFTAN:

20 Q. Good morning, Mr. Campbell.

21 A. Good morning.

22 Q. My name is Ben Shiftan, and I represent the
23 direct purchaser plaintiffs in this litigation against
24 various pork processors.

25 Can you just state and spell your full name for

1 MR. SHIFTAN: Going once.

2 MR. SMITH: All right. Let's take --
3 let's take ten minutes. I'm going to have a few
4 questions.

5 VIDEO TECHNICIAN: Stand by. The time is
6 4:42 p.m., and we're going off the record.

7 (A recess was taken.)

8 VIDEO TECHNICIAN: The time is 4:59 p.m.,
9 and we are back on the record.

10 EXAMINATION

11 BY MR. SMITH:

12 Q. Good afternoon, Mr. Campbell. I have just a
13 few questions for you. I want to follow up on some of
14 the things that plaintiffs asked you about today.

15 First, just to make sure we're on the same
16 page, how long have you been employed by Triumph Foods?

17 A. I started in 2004, so that would be
18 approximately 18 years.

19 Q. And, again, you were a chief operating officer
20 from inception until 2014?

21 A. Correct.

22 Q. Okay. And then you were a CEO from 2014 until
23 2021, right?

24 A. Correct.

25 Q. And you're now executive vice president?

1 A. Correct.

2 Q. Okay. You said this earlier, but just to
3 clarify. What is Triumph? How would you describe
4 Triumph?

5 A. Triumph is a fresh pork processor.

6 Q. What does a pork processor mean?

7 A. A pork processor means that we buy live animals
8 and convert them into boxed and comboed pork primals and
9 we produce pork products. We're a production company.

10 Q. Does Triumph have sow farm operations?

11 A. No.

12 Q. Has it ever?

13 A. No.

14 Q. Does Triumph own sows?

15 A. No.

16 Q. Has it ever?

17 A. No.

18 Q. Before they arrive at Triumph's processing
19 facility for slaughter, does Triumph own any hogs?

20 A. No.

21 MR. SHIFTAN: Object to form.

22 BY MR. SMITH:

23 Q. Has it ever?

24 A. Triumph does not own any hogs?

25 Q. Okay.

1 A. The production hogs.

2 Q. Understood. When they arrive at the facility,
3 at some point title transfers --

4 A. Correct.

5 Q. -- pursuant to your contracts with hog
6 suppliers?

7 A. Correct. Upon receipt at the plant.

8 Q. So based on -- with that background, would it
9 be fair to say Triumph has never reduced its sow herd?

10 MR. SHIFTAN: Objection to form.

11 THE WITNESS: We don't have a sow herd at
12 all so we can't reduce one or expand one. We have no
13 sows.

14 BY MR. SMITH:

15 Q. Okay. Fair to say Triumph's never reduced its
16 hog production level?

17 MR. SHIFTAN: Objection to form.

18 THE WITNESS: There's no production done
19 by Triumph Foods. We are not a producer.

20 BY MR. SMITH:

21 Q. I want to read to you a couple -- a few of the
22 allegations that have been made by the plaintiffs in
23 case and get your response or reaction to them. Okay?

24 A. Okay.

25 Q. "During 2009 Triumph reduced the number of sows

1 that it had from 396,000 to 371,500."

2 How would you respond to that?

3 A. That's -- it's -- we don't own sows. That
4 would be a ridiculous statement. We don't control the
5 production, don't participate in production, so we
6 couldn't reduce a sow herd we didn't have.

7 Q. Okay. "In 2009 Triumph reported substantial
8 cutbacks of approximately 24,500 sows representing over
9 6 percent of its sow herd."

10 How would you respond to that allegation,
11 Mr. Campbell?

12 A. It would be -- it would be inaccurate. You
13 cannot reduce a sow herd that the company does not own.

14 Q. "Triumph reduced the number of sows by 14,500
15 at its Christensen Facility." Capital F, by the way.

16 MR. SHIFTAN: Object to the form.

17 THE WITNESS: I'm speechless. I don't
18 know how to answer that other than to suggest we do not
19 engage in the operations, ownership of the sows or the
20 offspring thereof of any of the Christensen activities.
21 That would be an inappropriate statement.

22 BY MR. SMITH:

23 Q. Does Triumph have a Christensen facility?

24 A. No.

25 Q. Has Triumph ever had a Christensen facility?

1 A. No.

2 Q. "Triumph reduced the number of sows by 4,000 at
3 its New Fashion Pork Facility." Again, capital F.
4 How would you respond to that, sir?

5 A. Similar to the last comment. It would be a
6 silly accusation. There is no -- there's no ownership
7 of sows at Triumph Foods. The -- Triumph doesn't own
8 sows. The members own Triumph Foods. That's how that
9 works. So there is no sows or offspring at New Fashion
10 Pork owned or operated or overseen or managed by Triumph
11 Foods.

12 Q. Okay. Does Triumph have a New Fashion pork
13 facility?

14 A. No, it does not.

15 Q. Okay. Has it ever had a New Fashion pork
16 facility?

17 A. It has not.

18 Q. Okay. "Triumph reduced the number of sows by
19 5,000 at its Ickelberger facility."

20 How would you respond that allegation, sir?

21 A. It does not have sows, so it has no Ickelberger
22 facility, no control management oversight engagement.
23 That's just an inappropriate statement.

24 Q. Did Triumph ever have an Ickelberger facility?

25 A. No.

1 Q. Here's another one. "Triumph and Seaboard have
2 a longstanding marketing agreement where hogs processed
3 by Triumph were marketed by Seaboard. Thus, the
4 reduction in supply of sows raised by Triumph may result
5 in a reduction in the amount of pork that was sold by
6 Seaboard."

7 How would you respond to that allegation, sir?

8 A. My response to that would be we don't own any
9 sows so we can't reduce a herd. That's not been any of
10 the responsibility or authority of Triumph Foods. We
11 don't own sows. To the contrary, Triumph Foods is a hog
12 production -- or, excuse me, a hog processor. And, as a
13 result, since it's inception in 2006, has sought to
14 increase the supply of raw material through its
15 slaughter operations at any chance. It would be a core
16 part of our operational excellence culture.

17 Q. Okay. To increase your hog processing?

18 A. To increase hog processing.

19 MR. SHIFTAN: Objection to foundation.

20 BY MR. SMITH:

21 Q. Okay. Thank you, sir.

22 Here's another one. "In August 2009 Smithfield
23 considered publishing an op-ed saying Seaboard had not
24 taken steps to redo its pork supply, but, quote,
25 withdrew it, after receiving assurance that Triumph was

1 in the processing of reducing its production levels by
2 approximately 32,000 sows, an 8 percent reduction from
3 its 2007 levels."

4 How would you respond to that allegation, sir?

5 A. Well, first, I'll say we don't own any sows, as
6 I've said before. But, more importantly, as, at that
7 time, the chief operating officer of the company
8 responsible for all the activities of the plant, it was
9 our goal, our mission -- and I'm happy to expand upon
10 that -- to increase the amount of throughput at our
11 plant to increase the supply of pork products to the
12 marketplace.

13 Q. And I'm going to ask -- I'm going to want to
14 understand how you expanded to that, and we're going to
15 get into that in a minute, sir.

16 Aside from inedible byproducts, does Triumph
17 sell pork products processed at its facility?

18 A. No.

19 Q. Has Triumph ever sold pork products processed
20 at its facility while you worked there?

21 A. The answer is yes, in this exception. We
22 actually have meat sales that we supply meat to our
23 employees on a periodic basis. It's part of our union
24 contract to have meat sales, and so we'll have some
25 various cuts that we offer periodically to employees.

1 We also merchandise some of the cafeteria for, you know,
2 a package. You can pick up for, I think, 3 to \$5 a
3 package of product in the cafeteria. And we get a
4 request I think -- I believe it's once a year where
5 there's a Christmas pack that some of the board members
6 would like to provide a pork package to their employees
7 at holiday time, and we may actually prepare a box of
8 miscellaneous pork items for them at Christmastime.

9 Q. Okay. Other than those examples that you just
10 gave, does Triumph sell any pork?

11 A. No.

12 Q. Okay. Who owns Triumph?

13 A. Triumph Foods is owned by the members. They
14 are a group of hog producers that make an equity
15 investment in the company back when it was originated.

16 Q. What does it mean to be a hog producer?

17 A. A hog producer would be someone that, in my
18 opinion, is either through -- has engaged in the
19 breeding of sows, the management of that process, the
20 nutrition, the animal husbandry practices day in, day
21 out, make decisions to expand or contract or -- excuse
22 me -- expand or contract their supplies, and to sell the
23 offspring into the marketplace to fresh pork packers
24 like ourselves that turn that -- those pigs into pork
25 products.

1 Q. And I think you testified to this earlier, but
2 does Triumph have any ownership interest in any of its
3 members?

4 A. It does not.

5 Q. Has Triumph ever had any ownership interest in
6 any of its members?

7 A. It has not.

8 Q. Does Triumph have any control or influence over
9 its members' sow herds?

10 MR. SHIFTAN: Objection to form.

11 THE WITNESS: No, none.

12 BY MR. SMITH:

13 Q. Does Triumph have any control or influence over
14 its members' hog production hulls?

15 THE WITNESS: No.

16 MR. SHIFTAN: Same objection.

17 BY MR. SMITH:

18 Q. If you know, do Triumph members sell hogs to
19 hog processors other than Triumph?

20 A. I'm sorry. Ask that question again, please.

21 Q. If you know, do Triumph's members sell hogs to
22 hog processors other than Triumph?

23 A. The answer is I have knowledge of their
24 reported sow based quantities, and it would -- unless
25 their production levels were extraordinarily board, they

1 would be selling quantities of animals in excess of
2 those they supply to Triumph Foods.

3 Q. Okay. So you have no firsthand knowledge of
4 their hog sales, but, based on your knowledge of their
5 reported sow herds, it is your understanding and
6 expectation that, in fact, they are supplying hogs to
7 other pork processors?

8 A. They have and --

9 MR. SHIFTAN: Objection to form.

10 THE WITNESS: -- some would continually do
11 so, yes.

12 BY MR. SMITH:

13 Q. Thank you, sir.

14 But Triumph does procure hogs from its members,
15 correct?

16 A. It does.

17 Q. Okay. Is there a contract or written
18 instrument governing Triumph procurement of hogs from
19 its members?

20 A. There is.

21 Q. Okay. If I refer to those as member HPAs or
22 hog procurement agreements, will you know what I'm
23 referring to?

24 A. I will.

25 Q. Okay. Understand I'm not going to show you an

1 HPA right now, but I want to get your understanding as
2 former COO and CEO of Triumph. To your knowledge, are
3 there any requirements in each member HBA -- HPA
4 regarding hog production volume from each member?

5 A. Yes. Absolutely there is.

6 Q. And you testified to that earlier today, sir,
7 right?

8 A. Yes.

9 Q. Okay. If a member fails to meet their
10 production volume commitment to Triumph, does the
11 contract address that situation?

12 A. It does.

13 Q. Okay. And what are the consequences to a
14 member for failing to meet volume commitments to
15 Triumph?

16 A. There will be a penalty for replacement damages
17 assessed against the member that does not deliver their
18 requirements under their HPA.

19 Q. In addition to replacement damages, if a member
20 failed to meet hog production requirements to Triumph,
21 are there other potential consequences that member could
22 face?

23 A. Yes. It's a core part important to note that
24 the members set up a minimum quantity that the members
25 had to supply in terms of gross quantity of animals,

1 be their goal.

2 BY MR. SMITH:

3 Q. Okay. Does Triumph have quality criteria that
4 it uses to accept or disqualify hogs for processing?

5 A. Yes.

6 Q. And can you give me a high-level overview of
7 what those might be?

8 A. Yes. I mean, if there is -- there's a series
9 of things that could be the case. If the animal is down
10 or injured and it's received at the plant, there could
11 be some reason why it was injured either when it was
12 loaded or in transportation that we may not accept
13 delivery of that animal at the plant because it could
14 not make its way to the kill floor and be handled
15 humanely to do that.

16 So there's instances where -- your question is
17 are there, you know, animals that we would not accept at
18 the plant upon their delivery? Is that your question?

19 Q. Yeah. Or are there certain characteristics
20 that you require of the hogs that you're processing?

21 A. Well, the HPAs have a series of requirement.
22 All of them have -- for those that probably have seen
23 one of the HPAs -- and every company's got their own.
24 There are a set of characteristics that contractually
25 the people that deliver these animals must adhere to.

1 They would include nutritional standards. They would
2 include genetic standards. There would be animal
3 handling standards. Clearly there's quantity standards.
4 But a whole number of provisions that would have to be
5 adhered to by the party that are selling those animals
6 to the company. And we would constantly monitor the
7 ability for them to conform to those.

8 Q. I think you mentioned one of those instances
9 earlier today when you testified that you were -- when
10 there was a change in the acceptability of certain
11 products in hogs, you were doing testing to make sure
12 that those products were not in the hogs that you were
13 processing?

14 A. A transition from -- in that instance, as I
15 testified earlier, Paylean was a good example,
16 Ractopamine, for people to remove that when they've
17 historically included it in their diets. That took a
18 transition, and we definitely had to conduct tests and
19 provide feedback to ensure and validate that that
20 removal had taken place.

21 Q. Is Triumph a vertically integrated company?

22 A. Triumph is not -- No, Triumph's not vertically
23 integrated.

24 Q. Triumph doesn't own sows?

25 A. To be vertically integrated, we would have to

1 own everything from the farm to table and everything in
2 between. Triumph Foods is solely a pork processor.
3 Again, we receive live animals. We slaughter them, we
4 kill them, we convert them, and sell fresh pork items.
5 That's all Triumph Foods does.

6 Q. You don't actually sell them.

7 A. Excuse me. When I say "sell them," we provide
8 them to Seaboard who actually does the sales activity.
9 But we provide pork products available for sale for
10 Seaboard to do under the marketing agreement.

11 MR. SHIFTAN: Objection to form to the
12 question.

13 BY MR. SMITH:

14 Q. If the cost to acquire hogs for processing were
15 to increase, what would that mean for Triumph? Does it
16 need to may more or less for hogs?

17 A. If the price of hogs increase, Triumph would
18 pay more for hogs, and our profits would decline.

19 Q. Okay. Was there ever a time that you recall
20 during your tenure at Triumph when the cost to procure
21 hogs rose significantly?

22 A. Yes.

23 Q. And can you give me an example when that would
24 have been?

25 A. Well, there's always variability in the

1 marketplace where the price of hogs can go up and down,
2 but there are extreme conditions. I remember where
3 there was a huge disease that went through the hog
4 production systems and there was a decline in the supply
5 of hogs, and we wanted to keep our throughput and we did
6 everything we could to procure and source animals to
7 keep the throughput of the plant as high as we
8 practically could, so the price rose.

9 Q. And was that disease you're referencing, was
10 that the PEDv virus?

11 A. Yes.

12 Q. And earlier today counsel showed you a
13 document. I believe it was Plaintiff's 562. It was a
14 newsletter that you published.

15 MR. SMITH: I don't know if the Plaintiff's
16 can --

17 THE WITNESS: Yeah. I recall the
18 newsletter.

19 BY MR. SMITH:

20 Q. And I want to read you something from that
21 newsletter. This is from the CEO's desk at the time
22 you, Mark Campbell, were CEO. You say, "The swine
23 production industry was plagued by a virus referred to
24 as PEDv that caused significant fetal losses on the
25 farm. As 2014 progressed, many plants dropped to two to

1 the 280s, which would still be much more than, you know,
2 what would otherwise be somewhere in the neighborhood of
3 about 250 days to 252 days a year on a
4 Monday-through-Friday basis.

5 So the point I'm trying to make is we ran our
6 plant, I think, at rates well above most people would do
7 because of our culture of throughput.

8 Q. I want to ask you a little bit more about that,
9 the idea of capacity and how it changed during your
10 tenure.

11 Let's start with today. What is Triumph's
12 processing capacity today?

13 A. Today -- again, it's not the same number every
14 day. There's variabilities of issues in the production
15 system. But I would tell you, on average, the plant
16 processes approximately 21,500 head a day.

17 Q. And what was Triumph's processing capacity when
18 it began operations in 2006?

19 A. I'll answer that like this, if I may. Of
20 course, when it started it was zero, so there was no
21 production. But when it started, the design and the
22 expectations that we put together when we built the
23 facility was that we wanted to process 16,000 head a day
24 at Triumph Foods, and that would be a perfect day. So
25 if we processed 16,000 animals through that plant, we

1 would say we achieved the objective of the performance
2 we prepared for the project.

3 Q. How long did it take Triumph to reach the
4 capacity today of roughly 21,500?

5 A. Well if you look -- I'm going to play off that
6 a little bit. I have been fortunate enough to be with a
7 number of startups of pork processing plants. I'm not
8 saying this boastfully, but I've had the opportunity to
9 participate from a ground zero up for three fresh pork
10 plants of scale, a big scale, and so I have a little bit
11 of experience with the challenges that come with that.
12 But I will tell you, the culture, as I've described, of
13 operational excellence would be to how do we get as much
14 volume through this plant as we practically can. And so
15 as we went from that zero to that 16,000 -- and I can't
16 tell you as I sit here today, the exact timing of when
17 we hit that 16,000, but I would tell you within
18 approximately 18 months we were able to obtain somewhere
19 in that vicinity with regularity. But we started to say
20 what can we do to expand that further? So if you get
21 into, you know, 2000- -- late 2007 into 2008, we started
22 to ask ourselves how much time does it take to sanitize
23 our plant? We're running two shifts. But we have to
24 clean our plant every night, and we have to ask
25 ourselves, can we clean it quicker? Because if we can

1 clean it quicker, we can operate our production shifts
2 longer.

3 And so part of that culture is we started to
4 ask ourselves what changes in our operating practices
5 can we do or resource allocation at the plant to
6 optimize the throughput. And I can talk about in that
7 in great detail here, but what you're going to find that
8 we -- you know, through and integrated process over the
9 course of several years, we moved that 16,000 head a day
10 to 18,000 to 19,000 by shrinking the amount of time that
11 we would use to sanitize the plant. And you say, "Well,
12 gosh, you know. Well, was the plant clean or not?" We
13 would conduct our own Q/A inspections each day, take
14 swabs to make sure we would pass the cleanliness
15 factors. And each day the plant had the opportunity for
16 the USDA to do its inspection, which they did quite
17 regularly.

18 So we shrunk that time to increase the
19 slaughter time that we had available to us to get more
20 animals into the system and to process more pork out of
21 the plant almost continuously.

22 If you had a chart -- and I don't know if
23 somebody's got one. But if you had a chart of the time
24 period from startup through today, you would see a
25 nearly continuous ramp up year after year of throughput

1 through the plant to provide more pork for the
2 marketplace.

3 I will add -- and I take some pride in this --
4 when we got to a point where we said we think we've
5 gotten all the blood out of that turnip, we stepped back
6 and we said, "You know what? Let's not stop thinking.
7 Let's continually think about how we can get more pork
8 products out of this facility and do it with the right
9 amount of the quality." And we came up with some ideas
10 about how we actually might stage people out for breaks
11 where we can actually do what we call a continuous work
12 process where we would typically stop our plant -- it
13 was running 1,106 an hour -- and let everybody go out
14 for 15 minutes for a break or 30 minutes for a lunch or
15 another break in the afternoon. And we shrunk those
16 times to allow our kill floor to continue to operate
17 through the breaks at the plant. Again, further
18 increasing the throughput all through this period.

19 Q. Since you're continuing to increase throughput,
20 do you have an understanding of what Triumph's usual
21 capacity utilization as a percentage of its actual
22 capacity was during your tenure at Triumph?

23 A. Yeah. We would measure that for clarity. That
24 1,106 that I testified to earlier today is a limitation
25 on the slaughter side of the business particularly where

1 the USDA inspectors conduct their inspection. There's
2 seven USDA inspectors examining carcasses and carcass
3 parts and doing a final inspection for that carcass and
4 stamping the USDA stamp on it.

5 So, you know, that continuous expansion process
6 -- we assess our speed -- excuse me. We continued to
7 push the volume -- even up until recent months, we
8 continue to look at how we can squeeze more blood out of
9 that turnip.

10 Your question is how do we know how we're
11 doing.

12 Q. Yeah. What's the percentage? If you were to
13 say percentage utilization --

14 A. 98 percent.

15 Q. And that's been relatively consistent?

16 A. It has. 98 percent -- well, it's been
17 consistent really since we've gotten to our full
18 capacity. So when we go from, let's say, 18,000 to
19 19,000, that 98-percent plus has been our target all
20 along. And we'll assess how much against that 1,106 per
21 hour of line time are we able to achieve.

22 Q. So to the best of your recollection, that
23 98-plus percent of utilization has been consistent
24 throughout your tenure at Triumph Foods both as COO and
25 CEO, correct?

1 A. It has. And if it -- if it would ever drop,
2 trust me, it would garner a lot of attention as to -- it
3 has been, but there are periodic dips that can influence
4 that average. So for clarity it's -- it's not a perfect
5 science. There is some ups and downs, but I think the
6 records would clearly show that we achieve approximately
7 98-percent plus.

8 Q. Has there ever been a prolonged period during
9 which Triumph processed significantly below that
10 capacity, to your recollection?

11 A. No.

12 Q. Okay. Would it ever have been in Triumph's
13 interest or to its benefit in any way to process
14 significantly below capacity for a long period of time?

15 A. No.

16 MR. SHIFTAN: Object to form.

17 BY MR. SMITH:

18 Q. In one of your answers, I think you mentioned a
19 chart and actually think there's one that plaintiffs --
20 plaintiff showed you this document. They didn't
21 actually show you the chart, and I'd like to show it to
22 you.

23 MR. SMITH: Can we -- can we put up
24 Plaintiff's 556?

25 BY MR. SMITH:

1 Q. And I'd like to show you, sir -- let's start
2 with I think it's page 11. This is from the -- what was
3 I think marked as a Triumph Foods AgStar October 8,
4 2015, presentation.

5 There's a graph at the top of this page and
6 it's labeled "Historical Daily Head Process."

7 Do you know what this graph is representing,
8 Mr. Campbell?

9 A. Yes. It would reflect the average number of
10 animals slaughtered each day at the processing plant
11 over a period of time.

12 Q. And if you're looking at the graph, what does
13 that, if anything, indicate to you?

14 MR. SHIFTAN: Objection to form.

15 THE WITNESS: Well, I'll give you its pros
16 and its cons. It doesn't go back to 2006 to where the
17 plant commenced, so there is a window from 2006 to 2008
18 that would show that number all the way back to zero.
19 So you'll see that ramp up before then. But you'll also
20 see from 2008 to 2015, the continued efforts -- you
21 know, again, these drops that you'll see in here have to
22 do with mechanical downtime issues, bad weather, you
23 know, exceptions that can occur from time to time in a
24 meat processing plant. But you can see the continued
25 ramp up in volume. And, again, the output of that is

1 entered into this conspiracy to restrict supply and
2 reduce your output.

3 What does that pattern show you from 2009, '10,
4 '11, '12, '13, and '14, and projected into '15?

5 MR. SHIFTAN: Objection to form.

6 THE WITNESS: Well, it reflects what I
7 told you earlier is that -- is that culturally we have
8 continuously worked as a team operationally to find ways
9 to get more throughput out of the asset that the Triumph
10 Foods members invested in. And, again, I call it
11 operational excellence, but it is one of the core
12 strategies of our company to, you know, obviously
13 leverage the capabilities of the plant both in volume
14 and in weight. And so we have -- you know, even in some
15 of our HPAs we've challenged ourselves to encourage some
16 heavier weights. Every shackle that goes through the
17 plant carries a carcass, and if that carcass weighed
18 200 pounds or 220 pounds, so long as we could produce
19 the conforming product to meet the specifications at
20 1,106 an hour, you could do the math. That's a lot of
21 weight through the plant that advertises our cost.

22 BY MR. SMITH:

23 Q. And if we went back to, I think, the founding
24 of the company and then forward to the present, is it
25 your testimony that this would be an even more dramatic

1 example of an constant effort to increase throughput and
2 process pork at Triumph Foods?

3 MR. SHIFTAN: Object to the form.

4 THE WITNESS: I -- you couldn't find
5 anyone at Triumph Foods that would tell you otherwise.
6 That has been our mission. It has been our goal. It
7 has been our mantra. It certainly has been our culture.
8 And the numbers will demonstrate that.

9 BY MR. SMITH:

10 Q. Does Triumph export its own pork, or does
11 Seaboard do that?

12 A. Triumph Foods does not export product. We
13 actually operationally handle the packaging of the pork
14 and we will assemble it for shipment on to a container,
15 but we don't sell it, nor do we handle the finished
16 shipment of that out the door on to the customer.
17 That's Seaboard's responsibility.

18 Q. Do you have any knowledge of how Seaboard makes
19 decisions regarding which markets to export to?

20 A. We do not. I mean, we know there's consuming
21 markets for pork, but they make the determinations
22 ultimately where they think the best margins are for the
23 product. And we may challenge them to look at
24 opportunities. Certainly it's good business practice
25 for the revenue of our company to -- hey, let's make

1 sure we're -- you're doing your job, Seaboard, of
2 maximizing the realizations for the pork products that
3 are produced at Triumph Foods, but we don't sell the
4 pork. That's their duty within the agreement.

5 Q. So you're not involved in the day-to-day
6 decisions, but it's your expectation based on the
7 marketing agreements and other arrangements with
8 Seaboard that when Seaboard is making decisions about
9 sales, domestic or abroad, those decisions are based on
10 maximizing margins?

11 A. That's a duty and obligation of the marketing
12 agreement.

13 Q. Okay. Does exporting certain cuts of pork and
14 not others enhance profitability by getting an overall
15 higher carcass value?

16 MR. SHIFTAN: Objection to form.

17 THE WITNESS: Sometimes maybe it does and
18 sometimes maybe it doesn't.

19 BY MR. SMITH:

20 Q. Okay. Do you know if -- do you have any
21 knowledge of whether Seaboard ever exported pork for the
22 purpose of affecting domestic or pork prices in some
23 way?

24 A. No.

25 Q. Do you know whether, in your opinion, based on

1 occur.

2 BY MR. SMITH:

3 Q. Okay. Thank you, sir.

4 Both -- and you can separate it if it's
5 different. But during your tenure as COO and then CEO
6 of Triumph, how would you describe the number one
7 operational objective that you had? And you may have
8 already testified to this, but I just want to make sure
9 we're --

10 MR. SHIFTAN: Objection to form.

11 THE WITNESS: If you ask me for the number
12 one item, I would tell the folks listening is that it's
13 operational excellence. It's how do we take this
14 processing plant and make sure we manage the throughput,
15 optimize the yields that we recover from the carcasses.
16 I mean, you can imagine -- you've seen the numbers
17 earlier. Billions of pounds -- a billion-plus pounds a
18 year. So if we leave a pound on a bone and we throw it
19 away to our rendering system and we don't recover that
20 and put it in a box that we sell to customers -- or
21 excuse me -- that Seaboard sells to customers in
22 instance, it is a loss.

23 And so we focus operationally on
24 production. And yield as a key part of that, throughput
25 is a key part of that. Labor management, you'll see in

1 some of the communications we've had -- but, you know,
2 we're trying to make sure we optimize the use of people.
3 And so there's a little bit of planning. You can't just
4 turn something on today and turn it off tomorrow. So
5 there's labor management elements in that operational
6 excellence component. I've said cost management,
7 safety, and people. You know, you've got -- you've got
8 2,000 people working in this production facility. And
9 our ability to do a good job, you have to relate and
10 connect with those people and make sure we create an
11 environment where people will want to come to work.

12 BY MR. SMITH:

13 Q. With respect to your production, your
14 throughput, your efficiency goals, are you aware of any
15 infrastructure or capital investments that Triumph made
16 to support those objectives during your tenure?

17 MR. SHIFTAN: Object to the form.

18 THE WITNESS: Well, Triumph continuously
19 -- we talked about the A/R process in the testimony
20 earlier today. Triumph would always look at is there
21 capital necessary to revamp a line, make the work
22 simpler to do. Sometimes it's not automation; it's just
23 how do we make the work simpler and that individuals can
24 do that work more simply without having to either use a
25 knife or even have to turn something. We can do that

1 just with a simplification to how a conveyor operates.

2 But I will tell you over the course of my
3 tenure as the chief operating officer and CEO, I would
4 tell you that the company spent in the neighbor of 8- to
5 \$10 million a year on average capital projects to
6 enhance its ability to perform.

7 BY MR. SMITH:

8 Q. And by enhancing it's ability to perform --

9 A. To process pork.

10 Q. -- to process more pork?

11 A. To process pork. More pork.

12 Q. Counselor today asked you a little about the
13 STF facility in Sioux City.

14 Do you have an understanding of the approximate
15 cost of Triumph's investment in that STF facility?

16 A. I do.

17 Q. Okay. What was that?

18 A. That investment -- the capital cost for that
19 investment in totality as -- when it was finished, as it
20 was designed, would have been in the neighborhood of
21 \$330 million.

22 Q. Okay. Do you have an understanding of how
23 Triumph's business strategy, so opening a new facility,
24 growing that facility, has affected pork production in
25 the United States since inception, if at all?

1 A. I think that if you provide an avenue to
2 slaughter and turn live animals into pork products, the
3 comment I would make is it -- if there's margin there
4 that can be done -- so it can be done sustainably, over
5 the long term, they'll be more pork in the marketplace
6 through that expansion.

7 Q. Okay. Do -- did you have any involvement in
8 the build-out of the STF facility in Sioux City?

9 A. Absolutely I did.

10 Q. Okay. And can you tell me what your
11 involvement was?

12 A. Yes. It was -- it was the design of the
13 facility. So heavily involved in leveraging my
14 knowledge from Triumph Foods to that build-out and the
15 lessons learned from that as well as try to make sure
16 we're efficient in how we operate and layout that
17 facility to achieve optimal efficiencies in the plant.
18 I worked on the design of that facility and worked with
19 the engineers on their engineering activity and the
20 contracts with the engineering groups and equipment
21 suppliers to equip that facility.

22 Q. Were you involved in the implementation of the
23 rollout of that design and the startup of that facility?

24 A. I was involved in calling the mayor of
25 Sioux City and asking him if he would be willing to meet

HIGHLY CONFIDENTIAL

Page 248

1 In Re: Pork Antitrust

2 MARK CAMPBELL

3
4 ACKNOWLEDGMENT OF DEPONENT

5
6 I, Mark Campbell, do hereby
7 certify that I have read the foregoing pages and that
8 the same is a correct transcription of the answers
9 given by me to the questions therein propounded, except
10 for the corrections or changes in form or substance, if
11 any, noted in the attached Errata Sheet.

12
13
14 7/7/22

15 DATE

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SIGNATURE

5221622

EXHIBIT D

DEPOSITION OF RICK HOFFMAN FOUNDING TRIUMPH CEO

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 CIVIL NO. 18-1776 (JRT/HB)

4
5
6 IN RE: PORK ANTITRUST LITIGATION

7 This document relates to:

8 All Actions

9 _____/

10 April 26, 2022

11 10:04 a.m. - 3:51 p.m. CDT

12
13
14 VIDEOTAPED DEPOSITION OF RICCI HOFFMAN

15 TAKEN VIA ZOOM TELECONFERENCE

16
17
18 Taken on behalf of the Plaintiffs before
19 Alice J. Teslicko, Registered Professional Reporter,
20 Registered Merit Reporter and Notary Public, pursuant
21 to Plaintiffs' Notice of Deposition in the above
22 cause.

1 THE VIDEOGRAPHER: We are on the record.
2 Today's date is April the 26th, 2022 and we are
3 going on the record at 10:04 a.m. This is the
4 video deposition of Rick Hoffman in the matter of
5 Pork Antitrust Litigation. Case Number is
6 18-1776 (JRT/HB). This deposition is taking
7 place at Husch Blackwell in Kansas City,
8 Missouri.

9 Appearances will be noted on the
10 stenographic record. Will the court reporter
11 please swear the witness.

12 Thereupon:

13 RICCI HOFFMAN
14 was called as a witness and having been first duly
15 sworn, was examined and testified as follows:

16 THE WITNESS: Yes, I do.

17 THE COURT REPORTER: Thank you.

18 DIRECT EXAMINATION

19 BY MR. SHIFTAN:

20 Q Good morning, Mr. Hoffman.

21 A Good morning.

22 Q My name is Ben Shiftan and I represent the
23 Direct Purchaser Plaintiffs in this litigation.

24 Can you just state and spell your full name
25 for the record?

1 MR. SHIFTAN: Subject to any redirect, I
2 don't have anything further. Pass the witness.

3 MR. COHEN: No questions from me.

4 MR. SMITH: Is that it from plaintiffs then?
5 I'm sorry, is that yes?

6 MR. HEDLUND: No, no questions.

7 MR. SMITH: Okay, let's take five minutes
8 and then we can come back.

9 MR. SHIFTAN: Sounds good.

10 MR. SMITH: Thanks.

11 THE VIDEOGRAPHER: Stand by. The time is
12 3:18 p.m. and we're going off the record.

13 (Whereupon a recess was taken from 3:18 p.m.
14 to 3:23 p.m.)

15 THE VIDEOGRAPHER: Please stand by. The
16 time is 3:23 p.m. and we're back on the record.

17 CROSS EXAMINATION

18 BY MR. SMITH:

19 BY MR. SMITH:

20 Q All right, Mr. Hoffman. I have just a few
21 questions for you. Some of this you've already
22 covered, but I want to make sure we're clear.

23 Approximately how long were you employed by
24 Triumph Foods?

25 A Well, I don't remember -- I started working

1 for Bob Christensen in 2002 and I left employment at
2 Triumph Foods at the end of June 2014.

3 Q Okay. Fair to say you were at Triumph or
4 its predecessor and LLC from inception to starting to
5 operational. Would that be a fair description?

6 A It is.

7 Q And during that time, was Triumph anything
8 other than a pork processer?

9 MR. SHIFTAN: Objection to form.

10 A No. First of all, it started out, all it
11 was was my vehicle. So I started out raising equity
12 and debt to build a pork processing facility, and that
13 was our only business, was pork processing.

14 Q And during your entire tenure Triumph had to
15 acquire the hogs that it processed; is that fair?

16 A It is.

17 Q Did Triumph own a sow herd at anytime during
18 your tenure with Triumph?

19 A No.

20 Q To your knowledge, has Triumph ever owned a
21 sow herd?

22 A No.

23 Q Mr. Hoffman, if the cost to acquire hogs for
24 processing were to increase -- again, this is during
25 your tenure at Triumph -- what would that have meant

1 for Triumph?

2 MR. SHIFTAN: Objection to form.

3 A Well, if the price of hogs went up, our
4 profits would go down.

5 Q So --

6 A It all depended. If the sales price was
7 going up, our profits would go down.

8 Q So if all things remained the same, if hog
9 prices went up, that would negatively impact Triumph's
10 profitability?

11 MR. SHIFTAN: Same objection, sorry.

12 A Yes.

13 Q Aside from inedible byproducts, did Triumph
14 ever sell pork products processed at its facility?

15 A We sold pork products to our kitchen, but
16 other than that, no.

17 Q How would you describe the primary
18 operational objective that you set at Triumph while
19 CEO of Triumph Foods?

20 A Okay. Well, we outlined our objectives as a
21 company when we were organized and right after we
22 entered into the marketing agreement with Seaboard,
23 and our objectives were to be the lowest-cost
24 processor in the industry, and we did that by
25 executing a strategy to take advantage of economies of

1 scale.

2 We invested in our facility when we built
3 it. We made additions over time. We created a line
4 of genetics and we implemented a strategy that allowed
5 us to process bigger pigs than the industry was
6 processing. Our average pig size started out at
7 280 pounds and when we had good days, the pigs were
8 bigger than that.

9 We processed more pigs at our facility than
10 any standalone plant in the pork industry and the
11 combination of bigger pigs, more business, and finally
12 leaner pigs generated more pork for a facility of that
13 size than had ever been accomplished in the pork
14 industry; and that was our basic strategy, to take
15 advantage of these economies of scale.

16 In terms of our facility, what we did -- a
17 280-pound pig weighs a lot more than a 250-pound pig
18 and so it requires structural components to carry all
19 those pigs. Because the pigs are larger, it requires
20 more refrigeration capability. So we installed a
21 quick-chill system to be able to refrigerate a carcass
22 that large.

23 We had to build our equilibration cooler,
24 where we stored the dead pigs, dead carcasses
25 overnight. We had to build those large enough and

1 implemented.

2 Q So you mentioned a lot of things and I just
3 want to break it down just a little bit.

4 A Okay.

5 Q With respect to Triumph's operations, would
6 you describe that as unique in the industry?

7 A For sure.

8 Q And how so? I mean, why couldn't others do
9 what you were doing or why didn't they do it?

10 MR. SHIFTAN: Object to form.

11 A Well, the good news at Triumph, we didn't
12 own any processing plants when we started and so over
13 time what happened was that product mix -- or what the
14 market wanted in terms of products changed from when
15 old plants were built in our industry.

16 Because we were going to build a brand new
17 facility, we had visibility to what customers wanted
18 today and because of what we know they want today, we
19 could build our facility to do things to the product
20 that no other company could do in a standalone
21 operation. Most plants in our industry have add-ons
22 all over the plant.

23 Say, for instance, we want to bone more
24 hams. We want to make a particular -- a loin cap
25 product for loins and they don't have any space to do

1 it, as a result they added another room onto their
2 building and that's highly inefficient.

3 If you saw the Triumph facility, you would
4 see the product comes in the front door, goes out the
5 back door. It doesn't go off to different rooms.
6 There are conveyers everywhere to convey the product.
7 It's an extremely efficient operation.

8 So in that respect, because we had a brand
9 new facility -- and there are a couple more today than
10 when we started at Triumph -- you had some huge
11 advantages in building a facility around the types of
12 strategies that I'm talking about.

13 Secondly, Triumph didn't sell any pork
14 products and in our industry, that's somewhat unique.
15 Other processors conduct their own sales activities.
16 At Triumph we don't have any salesmen. We don't
17 control any sales, have nothing to do with it.

18 Basically, we produce the products and
19 that's handled -- information is provided to Seaboard
20 about what we produced and they're responsible for
21 selling the products.

22 That wasn't one of our company objectives.
23 We wanted to produce products that would generate high
24 margins for sure and we wanted those to be high
25 quality because we knew that would generate better

1 products, higher sales values.

2 Because we know that customers prefer
3 higher-quality products and we know in terms of a mix
4 of products, we can start to understand -- and
5 Agri Stats, for example, helped us understand a mix of
6 products that might create more total value.

7 But we had nothing to do with sales
8 activities and directly involved in sales and as a
9 result, that is quite a unique structure.

10 We also had our genetic line, allowing us to
11 try to execute these strategies I'm talking about,
12 bigger pigs. Because you can't just grow a bigger
13 pig, because they'll get really fat. Also, when you
14 grow bigger pigs it might generate meat that's kind of
15 floppy, kind of poor texture and poor fat content.

16 But because we had our own genetic line
17 which is very unique -- it's a genetic line that is
18 owned by Triumph, that would be trademarked to Triumph
19 Genetics, and we contracted with PIC for that
20 activity.

21 In addition to that, because of our
22 structure, our owners were our producers and that
23 structure in and of itself is somewhat unique. Our
24 hog procurement agreements in the industry, I'm not
25 familiar -- I think there may be another one now,

1 perhaps -- no, not similar to our structure.

2 I'm not sure there is another structure
3 similar in our industry similar to Triumph Foods in
4 which the owners of the company were hog producers and
5 had signed agreements to deliver hogs to the company
6 for it to process. That is a unique structure in and
7 of itself.

8 Farmland was somewhat similar in its
9 structure as a cooperative, but really different than
10 Triumph Foods.

11 Q So I know this is a tough question, but if
12 you were to ballpark the capital improvements that
13 Triumph made to reach these efficiencies, to develop a
14 more efficient, more competitive product, what would
15 that -- during your tenure, what would that ballpark
16 have been?

17 MR. SHIFTAN: Objection to form.

18 Q Tens of millions?

19 MR. SHIFTAN: Same objection.

20 A Well, obviously, just to build a basic
21 plant, a plant could have perhaps been built for in
22 those days maybe a hundred million dollars or
23 something like that.

24 I think our capital expenditure, and some
25 was capitalized and some was -- we used lease

1 In Re: Pork Antitrust Litigation
2 Ricci Hoffman

ACKNOWLEDGMENT OF DEPONENT

3
4 I, Ricci J. Hoffman, do
5 hereby certify that I have read the foregoing
6 pages and that the same is a correct
7 transcription of the answers given by
8 me to the questions therein propounded,
9 except for the corrections or changes in form
10 or substance, if any, noted in the attached
11 Errata Sheet.

12 6/9/2022

DATE

13 Ricci J. Hoffman
14 SIGNATURE
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EXHIBIT E

TRIUMPH WORKING DAYS CHART

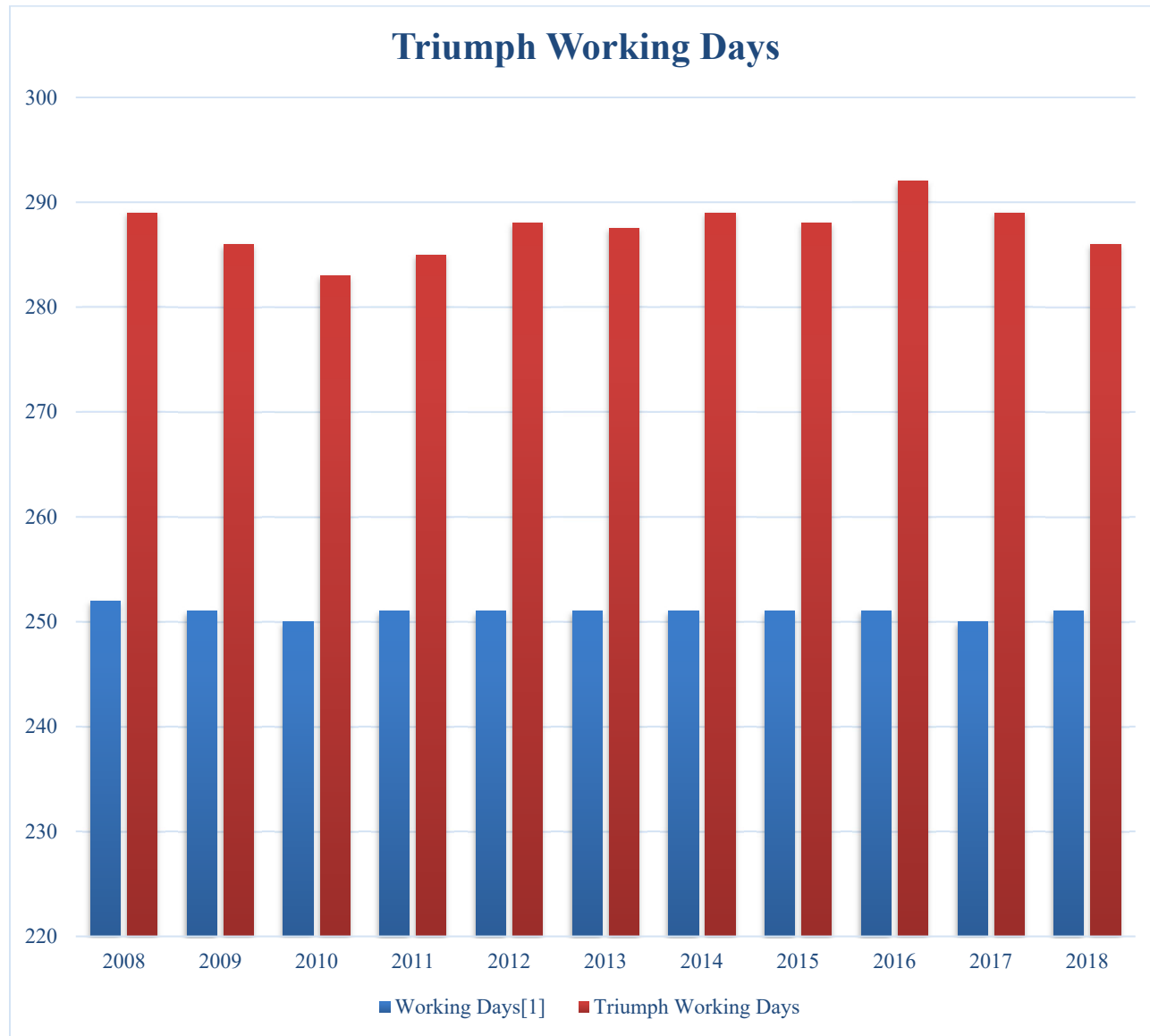


EXHIBIT F

MATT ENGLAND DEPOSITION EX. 1 (TRI0000544439-40)

Triumph Foods Processing History

*Unless otherwise indicated numbers are St. Joe only and do not include STF, which would show an even greater increase if included.

Triumph's processing output **increased** between 2008 -2018

- Average Head/Day **increased** by almost 3,000 head

- Total HCW **increased** from 1.1B in 2008 to 1.3B in 2018 (**over 200,000,000 lbs. increase**)

- Triumph's focus was increasing and meeting processing capacity

§Capacity in Spring 2009 = Appx. **19,000** hogs/day; Spring 2011 = 20,000; Spring 2012 = 21,300; Winter 2014 = 21,500

§2007 capital expansion for equilibration bay

§2008 added snapchill

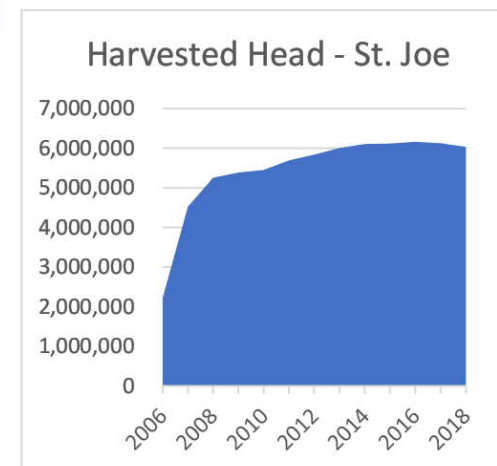
§2013 capital expansion for add'l equilibration bay

§2014 implementation of program to utilize idle break times for processing

§System designed to handle increased hog weights to maximize efficiency

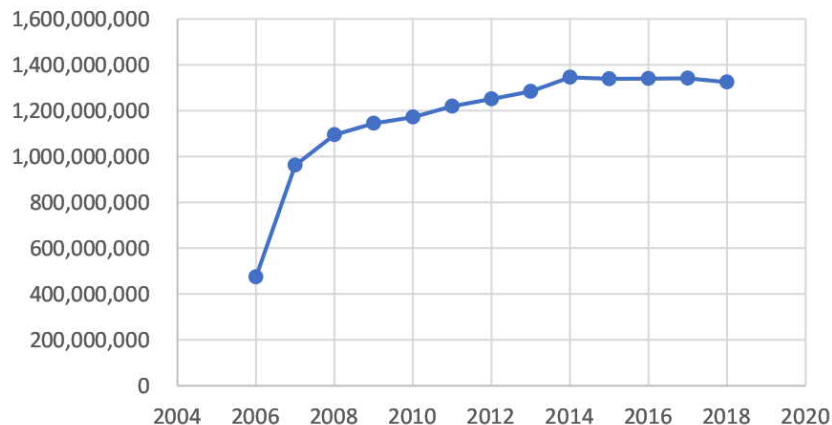
§Daily Capacity by 2014 = **21,500** hogs/day

Op. Days	Year	Harvested Head	Live Wt	Hot Wt	Total Hot Carcass Weight	Avg Head per Day	Theo. Capacity
261.0	2006	2,220,065	278.5	213.7	474,427,891	8,506	
278.0	2007	4,520,753	275.2	212.7	961,564,163	16,262	
289.0	2008	5,253,794	270.4	208.3	1,094,365,290	18,179	
286.0	2009	5,385,144	276.0	212.5	1,144,343,100	18,829	19,000
283.0	2010	5,449,110	279.1	215.0	1,171,558,650	19,255	
285.0	2011	5,688,920	278.3	214.3	1,219,135,556	19,961	20,000
288.0	2012	5,833,153	278.5	214.4	1,250,628,003	20,254	21,300
287.5	2013	6,001,575	277.8	213.9	1,283,736,893	20,875	
289.0	2014	6,103,146	286.2	220.4	1,345,133,378	21,118	21,400
288.0	2015	6,116,734	284.1	218.8	1,338,341,399	21,239	21,500
292.0	2016	6,162,060	282.3	217.4	1,339,631,844	21,103	21,500
289.0	2017	6,123,236	284.3	219.0	1,340,988,684	21,188	21,500
286.0	2018	6,029,637	285.2	219.6	1,324,108,285	21,083	21,500

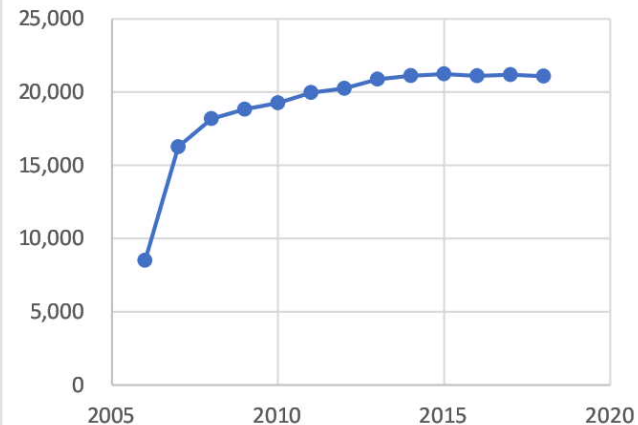


Highly-Confidential Subject to Protective Order

Total Hot Carcass Weight St. Joe



Avg Head per Day - St. Joe



Year	Total Hot Carcass Weight St. Joe	Total Hot Carcass Weight - STF	HCW St. Joe + 1/2 STF
2006	474,427,891		474,427,891
2007	961,564,163		961,564,163
2008	1,094,365,290		1,094,365,290
2009	1,144,343,100		1,144,343,100
2010	1,171,558,650		1,171,558,650
2011	1,219,135,556		1,219,135,556
2012	1,250,628,003		1,250,628,003
2013	1,283,736,893		1,283,736,893
2014	1,345,133,378		1,345,133,378
2015	1,338,341,399		1,338,341,399
2016	1,339,631,844		1,339,631,844
2017	1,340,988,684	82,513,296	1,382,245,332
2018	1,324,108,285	611,280,882	1,629,918,409

HCW St. Joe + 1/2 STF

